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Communal Representation in the Legislatures and Local Bodies.

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CHAPTER I.

INTRODUCTORY.

Comment in the Joint Report on the subject of communal representation.

1. In paragraph 227 and the immediately succeeding paragraphs the authors of the Joint Report discussed the problem of communal electorates and described it as "the most difficult question which arises in connexion with elected assemblies". They stated that it was no new problem, it had been discussed periodically from the time when the first steps were taken to liberalize the Councils. They then added—

> "There has hitherto been a weighty consensus of opinion that in a country like India no principle of representation other than by interests is practically possible. Lord Dufferin held this view in 1888, and in 1892 Lord Lansdowne's Government wrote that 'the representation of such a community upon such a scale as the Act permits can only be secured by providing that each important class shall have the opportunity of making its views known in council by the mouth of some member specially acquainted with them'. We note that in 1892 the small size of the councils was reckoned as a factor in the decision, and that the contrary view was not without its exponents, but we feel no doubt that Lord Minto's Government followed the predominant opinion when in 1908 they pressed for an important extension of the communal principle."

The Lucknow Pact of 1916 entered into between Hindu and Muslim leaders had conceded separate electorates to the Muslims and Muslims were stated (paragraph 231) still to regard separate representation and communal electorates as "their only adequate safeguard". On these grounds while holding the opinion that communal electorates are opposed to the teaching of history, perpetuate class divisions, and stereotype existing relations, the Joint Authors concluded that 'so far as the Muslims are concerned, the present system must be maintained until conditions alter, even at the price of slower progress towards the realization of a common

citizenship." The only limitation which they suggested was that communal representation for Muslims should not be set up in any province, where they form a majority of the voters.

The claims of other minority communities to separate representation were dismissed by the Joint Authors, with an exception in favour of the Sikhs, of whom they wrote in the following terms—

> "Any general extension of the communal system would only encourage still further demands, and would in our deliberate opinion be fatal to that development of representation upon a national basis in which alone a system of responsible government can possibly be rooted. At the same time we feel that there is one community from whom it is inexpedient to withhold the concession. The Sikhs in the Punjab are a distinct and important people: they supply a gallant and valuable element to the Indian army; but they are everywhere in a minority, and experience has shewn that they go virtually unrepresented To the Sikhs therefore, and to them alone, we propose to extend the system already adopted in the case of the Muslims."

Communal representation under the Reforms.

2. Actually under the reformed system of Government introduced by the Government of India Act, 1919, Muslims, who no longer vote in mixed constituencies in addition to voting in their own constituencies, have been given communal electorates in provinces, for instance the Punjab and the Central Provinces, where separate communal representation had not previously been introduced; and in addition to the Sikhs, separate communal representation has been granted to Europeans in Madras, Bombay, Bengal, the United Provinces, Bihar and Orissa and Burma; to Anglo-Indians in Madras, Bengal and Burma; to Indian Christians in Madras; and to Indians and Karens (on a limited scale) in Burma. In Bombay seats are reserved for Mahrattas, in Madras for non-Brahmans.

The reforms therefore not merely confirmed Muslims in the protection afforded by separate communal electorates, but went further and extended that type of protection in particular provinces to the other minority communities mentioned

above ; while in some instances protection has been given by the reservation of seats. So far then from restricting communal representation, the Reforms of 1919 extended its scope.

The scope of the note.

3. Before however the present position is examined, an attempt will first be made in this note to investigate the basis of the statement made by the Joint Authors in 1917 to the effect that hitherto there had been "a weighty consensus of opinion that in a country like India no principle of representation other than by interests is practically possible." This investigation will involve a passing reference to the introduction of a non-official element into the Councils by the first Indian Councils Act, 1861, and some mention of the discussions prior to and at the time of the passing of the Indian Councils Act, 1892, when a greater measure of representation was introduced, and the elective principle first appeared under the disguise of nominations made upon recommendation. The Morley-Minto Reforms of 1909 will need to be dealt with rather more fully, because communal electorates, as such, date from those reforms which first openly recognised election as the mode by which representatives should obtain their seats on the Councils. In the later paragraphs of this note the description of the Joint Authors of communal electorates as "the most difficult question which arises in connexion with elected assemblies" will be taken as the starting point from which to examine the manner in which the problem was approached by the Franchise Committee, by the Government of India, and finally by Parliament, and to describe the present position with regard to the electorates not only of the legislatures but of local bodies, namely, the municipalities and district boards. The note, which does not purport to be more than a simple collection of material, will then conclude with reference to subsequent discussions and party negotiations on the subject of joint *versus* separate electorates.

The place of communal representation under a system of Responsible Government.

4. One point, however, merits separate mention. The representation of classes, communities and interests as such under any autocratic system of government tempered to greater or less degree by the representation of those governed may be said to occupy a very different constitutional position from similar representation under any system of responsible government, however incomplete, in which power and authority vest in the representatives themselves. Unless that distinction is mentioned, this

note would fail to place the communal electorates of the present day in their correct relation to the communal electorates of the Morley-Minto Reforms of 1909, or to the representation of interests which it was intended to secure, but which was not secured, in the Councils formed under the provisions of the Indian Councils Act, 1892.

CHAPTER II.

THE REFORMS OF 1861 AND OF 1892.

The 1861 Councils not representative bodies.

5. The first steps in the direction of associating non-officials with the business of legislation were taken with the passing of the Indian Councils Act, 1861. For purposes of legislation, and of legislation only, the Governor-General's Council was reinforced by additional members not less than six, nor more than twelve in number, nominated for two years, of whom not less than half were to be non-officials. The legislative councils were restored in Madras and Bombay by expanding the Governor's Executive Councils on the same lines as the Governor-General's. The Governor General was also directed to establish a legislative council for Bengal and empowered to establish similar councils for the North-Western Provinces and for the Punjab; these two bodies actually came into being in 1886 and 1897 respectively. When introducing the India Council Bill in the House of Commons on the 6th June 1861, Sir Charles Wood made it clear that no attempt was being made to set up a "representative body to make the laws by which they are to be governed", and added—

> "I am sure that every one who considers the condition of India will see that it is utterly impossible to constitute such a body in that country. You cannot possibly assemble at any one place in India persons who shall be the real representatives of the various classes of the population of that empire."

The point then to which attention is drawn is that the additional members of the Governor-General's Council summoned when the Council met for the purpose of making laws and regulations were not appointed as "representatives" of the people or of particular sections, classes or interests of the people, though their appointment indicated a desire on the part of the Government to obtain non-official co-operation and advice in the business of making laws.

6. In this respect the Reforms of 1892 marked a definite advance; not only was the representation of interests recognised, but the elective principle was introduced. As explained in paragraph 66 and the succeeding paragraphs of the Joint Report, the measure which eventually took shape as the Indian Councils Act, 1892, was initiated by discussions in Lord Dufferin's time which resulted in definite recommendations that provisions should be made for the appointment to the councils of representatives of the more important interests, in the country. The Joint Authors have quoted Lord Dufferin's view of the position as it then existed, when he brought forward his proposals that the wishes and feelings of the people of the country should be— The constitution of the 1892 Councils.

> " ..... expressed not, as at present through self-constituted, self-nominated, and therefore untrustworthy channels, but by the mouths of those who will be the legally constituted representatives of various interests and classes ....."

Popular representation as understood in Western countries was not contemplated, but it was felt that there was room for considerable advance in the representation of interests on the lines indicated in the following extract taken from one of the Government of India's despatches addressed to the Secretary of State in 1892 at the time when the new Indian Councils Bill was being brought before Parliament:—

> "Indian society from historical causes to which we need not now refer is essentially a congeries of widely separated classes, races, and communities, with divergences of interests and hereditary sentiment which for ages have precluded common action or local unanimity. Representation of such a community upon such a scale as the Act permits can only be secured by providing that each important class shall have at least the opportunity of making its views known in the council by the mouth of some member specially acquainted with them."

7. In the Act as passed the word " election " was scrupulously avoided; but the elective principle was thinly disguised as nomination upon recommendation. The important point to notice Representation by interests and the first appearance of the elective principle.

for the purpose of this note is that this legislation carried the country one step further in the development of the principle of representation by interests as the foundation upon which the non-official element in the Councils should rest. When introducing the Bill in the House of Commons on the 28th March 1892, Lord Curzon, then Under Secretary of State for India, observed that the time had not yet come when representative institutions, as we understood the term, could be extended to India. He disclaimed any intention of giving the enlarged councils the character of representative chambers, but stated that the Bill was intended to "provide the means by which representatives of the most important sections of native society may be appointed to the Councils". When transmitting to the Governor General in Council a copy of the Act as passed by Parliament, the Secretary of State, Lord Cross, commented in the following terms on the steps to be taken to obtain "the representation of the views of different races, classes, and localities."—

> "Where corporations have been established with definite powers, upon a recognised administrative basis, or where associations have been formed upon a substantial community of legitimate interests, professional, commercial or territorial, Your Excellency and the local Governors may find convenience and advantage in consulting from time to time such bodies, and in entertaining at your discretion an expression of their views and recommendations with regard to the selection of members in whose qualifications they may be disposed to confide."

After the receipt of the Secretary of State's instructions, the Government of India defined for each province the classes which were of sufficient importance to require representation. Thus the classes considered to require representation in the province of Bengal were as follows—

(1) Hindus.
(2) Muhammadans.
(3) Non-official Europeans and Anglo-Indians.
(4) Merchants, traders and manufacturers.

(5) The planting community.

(6) The population of the Presidency town.

(7) The urban classes of the mufassil.

(8) The rural classes.

(9) The professional and literary classes."

It was recognised at the time that this classification was a cross-division : a person representing the professional or urban classes might also represent the Hindus ; and a person representing the rural classes might also represent the Muslims.

It will be noticed that the classes in Bengal to which the Govt. of India considered that representation must be secured comprised communities (for instance, Hindus, Muslims and Europeans), classes (for instance the urban, rural and professional classes), and interests (for instance, commercial interests). In the distribution made under the regulations, no right of nomination was conferred on any community as such, but the regulations were so designed as to give effect to the expression of opinion of the Government of India, quoted in paragraph 227 of the Joint Report, that " each important class shall have the opportunity of making its views known in Council by the mouth of some member specially acquainted with them. " The elective element in the provincial councils consisted at the utmost of eight members, returned by a few large cities, by groups of municipalities and district boards, by large zemindars, by chambers of commerce and by universities. In the Indian Legislative Council ten non-officials were admitted, four seats were allotted to recommendation by the non-official members of the four provincial councils, and one to the Calcutta Chamber of Commerce. Abandoning as hopeless the idea of securing the vast residuary area and population of the country by any quasi-elective machinery, the authorities fell back for the filling of the five remaining non-official seats upon the process of nomination by the Governor-General. (Paragraph 71 of the Joint Report.)

Summary.

8. To sum up then, though the reforms of 1861 introduced a small non-official element, no attempt was made to create representative chambers. In 1892 the provincial legislative councils were constituted with a view to making them representative of the more important communities, classes and interests, but the regulations under section 1(4) of the

Indian Councils Act, 1892, did not themselves recognise communal divisions. The Indian Legislative Council gave representation to provinces, and left communal and class representation to be secured by direct nomination. The elective principle appeared under the disguise of nomination upon recommendation.

CHAPTER III.

The Morley-Minto Reforms of 1909.

The working of the Indian Councils Act, 1892, and Lord Minto's Committee of August 1906.

9. Rather more than five years after the Indian Councils Act, 1892, had been passed Lord George Hamilton ordered the working of the regulations to be reviewed with the object of ascertaining how far they had secured the representation of all important classes. The results were described in the following passage in paragraph 70 of the Joint Report :—

> "Inquiry showed both in Madras and Bombay that the district boards and municipalities which constituted the nominating authorities for rural areas tended to nominate lawyers far too exclusively, but neither Government was disposed to press for any change. In Bengal however one seat was transferred from the rural municipalities to the large landowners who had hitherto been given a right of nomination."

Lord Minto assumed office as the Viceroy and Governor General of India on the 18th November 1905. In August 1906 a Committee of the Executive Council was formed to consider a number of suggestions for reform, including, among other matters, increased representation on the Indian and provincial Legislative Councils.

The All-India Muslim Deputation of October 1906.

10. While the Committee was at work, a deputation representing the Muslims of India waited upon His Excellency on the 1st October 1906, and presented an address which was read by H. H. the Aga Khan. It was in this address that the claim to separate Muslim representation was made; and it was in the reply given by His Excellency that the claim is commonly understood to have been conceded. Both the address therefore and Lord Minto's

reply are documents of the highest importance in tracing the history of communal electorates in the country, and no apology is needed for examining their contents at some length. In the course of the address the deputation made the following points :—

(1) That in the whole of India the Muslims number over 62 millions or between 1-5th and 1-4th of the total population ;

(2) that if Animists and depressed classes ordinarily classed as Hindus but not properly Hindus, were deducted, the proportion of Muslims to Hindus would be larger than is commonly shown ;

(3) that as their numbers exceed the entire population of any first-class European power, except Russia, Muslims might justly claim adequate recognition as an important factor in the State ;

(4) that the position accorded to the Muslim community in any kind of representation, direct or indirect, and in all other ways affecting their status and influence should be commensurate not merely with their numerical strength, but also with their political importance and the value of the contribution which they make to the defence of the Empire ;

(5) that the representation hitherto accorded to them, almost entirely by nomination, had been inadequate to their requirements and had not always carried with it the approval of those whom the nominees were selected to represent ;

(6) that while Muslims are a distinct community with additional interests of their own, which are not shared by other communities, no Muslim would ever be returned by the existing electoral bodies, unless he worked in sympathy with the Hindu majority in all matters of importance.

On these grounds the deputation made the following proposals :—

(*a*) that in the case of municipal and district boards the number of

Hindus and Muslims entitled to seats should be declared; such proportion being determined in accordance with the numerical strength, social status, local influence and special requirements of either community and that each community should be allowed to return their own representatives, as in the Aligarh Municipality and in many towns in the Punjab;

(*b*) that in the case of senates and syndicates of Indian universities there should, so far as possible, be an authoritative declaration of the proportion in which the Muslims are entitled to be represented in either body;

(*c*) that in the case of provincial Legislative Councils the proportion of Muslim representatives should be determined and declared with due regard to the considerations noted above, and that the important Muslim land-lords, lawyers and merchants and representatives of other important interests, the Muslim members of district boards and municipalities and the Muslim graduates of universities of a certain standing, say five years, should be formed into electoral colleges and be authorised to return the number of members that may be declared to be eligible;

(*d*) for their representation in the Imperial Legislative Council they suggested—

(i) that the proportion of Muslims should not be determined on the basis of numerical strength and that they should never be an ineffective minority;

(ii) that as far as possible appointment by election should be given preference over nomination;

(iii) that for the purpose of choosing Muslim members, Muslim land-owners, lawyers and merchants, and representatives of every important interest of a status to be subsequently determined by

Government, Muslim members of provincial Legislative Councils and Muslim fellows of universities should be invested with electoral powers.

11. His Excellency's reply to the address contained the following observations:— Lord Minto's reply.

> "The pith of your address, as I understand it, is a claim that under any system of representation, whether it affects a municipality or a district board or a legislative council, in which it is proposed to introduce or increase an electoral organisation, the Muslim community should be represented as a community. You point out that in many cases electoral bodies as now constituted cannot be expected to return a Muslim candidate, and that if by chance they did so, it could only be at the sacrifice of such a candidate's views to those of a majority opposed to his community whom he would in no way represent; and you justly claim that your position should be estimated not only on your numerical strength but in respect to the political importance of your community and the service it has rendered to the Empire. I am entirely in accord with you. Please do not misunderstand me. I make no attempt to indicate by what means the representation of communities can be obtained, but I am as firmly convinced as I believe you to be that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the beliefs and traditions of the communities composing the population of this continent."

12. The Council's Committee, to which reference has been made in paragraph 9 gave special attention to the problem of Muslim representation. As a result of their enquiries, the Committee found that the Muslims had not been sufficiently represented on the The Councils Committee, 1908.

existing councils, that the few elected members had not been really representative, and that nomination had failed to secure the appointment of Muslims of the class desired by the community. In order to remove these grievances they considered two measures necessary. In the first place they suggested that, in addition to the small number of Muslims who might be able to secure election in the ordinary manner, a certain number of seats should be assigned to be filled exclusively by Muslims; and secondly that for the purpose of filling those seats, or a proportion of them, a separate Muslim electorate should be formed. The Committee made no specific proposals as to the number of seats to be assigned to the Muslims on the Provincial Legislative Councils, but suggested an electorate comprising payers of land revenue and income-tax and registered graduates of the universities. As regards the Imperial Legislative Council they considered that a total strength of 6 or perhaps 7 members in a Council of 46 would not be an excessive proportion for a community of such importance. Accordingly they proposed that 4 seats should be set apart for Muslims, two to be elected in rotation by Bengal, Eastern Bengal and Assam, U. P. and the Punjab and Bombay, and two to be filled by nomination by the Viceroy. For the elected seats they suggested an electorate consisting of the Muslim non-official members of the provincial legislative councils, the Muslim fellows of the universities and Muslims paying income-tax or land revenue above a certain figure

Correspondence between the Government of India and the Secretary of State, and with the local Governments.

13. These proposals were supported by the Government of India and communicated to the Secretary of State, who accepted the principle that the Muslim community was entitled to a special representation on the Governor-General's and local legislative councils commensurate with its numbers and political and historical importance. This correspondence led to the issue by the Government of India of their letter No. 2310—17, dated the 24th August 1907, addressed to local Governments on the subject of the reforms with instructions to consult important bodies and individual representatives of various classes of the community before submitting their own conclusions to the Government of India. With regard to Hindu-Muslim representation the following points were taken by the Government of India in their letter :—

(1) The reply of His Excellency to the Muslim Deputation of the 1st October 1906 was affirmed.

(2) It was admitted that comparatively few Muslims had been elected under the existing system, and that nomination had not been satisfactory.

(3) It was assumed that a small number of Muslims would be elected in the ordinary manner, especially in Eastern Bengal and Assam and the Punjab, where they formed the majority of the population, and

(4) the suggestion was made that in each council a certain number of seats should be assigned to be filled exclusively by Muslims, some by special Muslim electorates and some by nomination. In the Imperial Legislative Council it proposed that two members should be elected by Muslims, and that not less than two Muslim members should be nominated.

In the course of the same letter the following observations were made :—

> As the constitution of the provincial legislative councils must largely depend upon the municipalities and district boards it is suggested that local Governments should introduce into their systems of election and nomination for these boards the principle of assigning a fixed proportion of seats to each of the leading classes into which the population is divided by race, caste or religion, and permitting the members of that class to select its own representative.

To this passage subsequent reference will be made in the later chapter of this note which deals with the subject of communal representation on local bodies.

Hindu criticism of the special representation of Muslims.

14. When addressing the Secretary of State in their despatch No. 21, dated the 1st October 1908, the Government of India mentioned that all local Governments approved of the proposals for the special representation of Muslims. They then added—

> "These proposals are as a rule adversely criticised by the Hindus who regard them as an attempt to set one religion against the other, and thus to create a counterpoise to the influence of the educated middle class.

> Some Hindus, however, recognise the expediency of giving special representation to the Muslim community and the Bombay Presidency Association, while they object strongly to the creation of a special Muslim electorate, made provision in their scheme of a council for the election of two members by the Muslim community. Notwithstanding their formal protest against the principle of religious representation the Association doubtless realise that the Indian Muslims are much more than a religious body They form, in fact, an absolutely separate community distinct by marriage, food and custom and claiming in many cases to belong to a different race from the Hindus."

The letter then went on to examine the extent of the representation to be given to Muslims.

Lord Morley's declaration in Parliament.

15. Subsequent discussions turned on the nature of the method by which Muslim representation should be secured, culminating in an address presented in London to Lord Morley by a Muslim deputation protesting against certain mixed electoral colleges which had been suggested. Greater interest attaches, however, to the manner in which the suggestion for separate Muslim representation was received in Parliament. The second Reading of the Bill was moved by the Secretary of State in the House of Lords on the 23rd February 1909. In the course of his speech Lord Morley said—

> "The Muslims demand three things I had the pleasure of receiving a deputation from them and I know very well what is in their minds. They demand an election of their own representatives to these councils in all the stages just as in Cyprus, where I think Muslims vote by themselves; they have nine votes and the non-Muslims have three or the other way about; so in Bohemia where the Germans vote alone and have their own register; therefore we are not without a precedent and a parallel for the idea of a separate register. Secondly, they want a number of seats

> in excess of their numerical strength. These two demands we are quite ready and intend to meet in full."

The second Reading of the Indian Councils Bill was moved in the House of Commons on the 2nd April 1909, by Mr. Buchanan who stated that Muslim representation would be obtained in the future in different ways in different provinces; in some provinces by a system of Muslim electorates specially constructed; in others by asking the Muslim associations to name representatives; in others, at any rate for the time being, by nomination. In a later stage of the same debate Mr. Asquith said—

> "Undoubtedly there will be a separate register for Muslims. To us here at first sight it looks an objectionable thing because it discriminates between people and segregates them into classes on the basis of religious creed. I do not think that is a very formidable objection. The distinction between Muslim and Hindu is not merely religious, but it cuts deep down into the traditions of the historic past and is also differentiated by the habits and social customs of the community."

Three schools of opinion.

16. During the period when these reforms were under discussion, there may be said to have been three schools of opinion on the subject of Muslim representation, namely—

(1) Extreme separatists who insisted on absolute isolation;

(2) Moderate separatists who would give the Muslims full and adequate representation by means of special Muslim electorates and would also maintain their participation in the elections of the general electorate;

(3) Non-separatists who objected to any sort of class representation by separate electorates.

The proposals of the Government of India were those of the second class, and in a speech in the Imperial Legislative Council on the 29th of March 1909, Mr. Gokhale said that his views on the subject of Muslim representation were practically the same as those of the Govern-

ment of India. The words he used were as follows :—

> "I think the most reasonable plan is first to throw open a substantial minimum of seats to election on a territorial basis in which all qualified to vote should take part without distinction of race or creed. And then supplementary elections should be held for minorities which numerically or otherwise are important enough to need special representation, and these should be confined to members of minorities only."

Later on he added—

> "The idea of two water-tight compartments for Hindus and Muslims separately will not promote the best interests of the country, and moreover it is really not feasible, for there cannot be only two such compartments unless all minorities other than Muslims are to be joined to the Hindus, in which case the division will practically be Muslims and non-Muslims."

In replying in the Imperial Legislative Council to the Hon'ble Mr. Dadabhoy who had taken exception to class representation as such, the Hon'ble Sir Harvey Adamson said it was necessary to provide some means by which Muslims may obtain such number of additional seats as will bring their representation into due proportion; the advantage of the plan adopted was that it provided for composite action by all communities up to a certain point, and then prevented injustice in practical operation to minorities by giving them special supplementary electorates of their own.

Communal representation in the 1909 Councils.

17. The result then of the Morley-Minto reforms was that the constitution of the Provincial Legislative Councils was based upon a system of representation of classes and interests consisting of basic constituencies representing landholders, groups of district boards, and groups of municipal townships. There were no territorial constituencies properly so called, but the three Presidency corporations returned special representatives, and except in their case, no individual town or city had its own special member. To these basic classes were

added representatives of universities, chambers of commerce, trades associations and other like interests, the members returned being in the great majority of cases elected, but in some few instances nominated. On these constituencies there were super-imposed certain special Muslim electorates. Thus besides voting in their own special constituencies, Muslims also voted in the general electorates, to counterpoise which these constituencies were themselves created. These special Muslim constituencies were on a territorial basis in the sense only that the province was divided territorially for the purpose of the election of Muslim representatives. Thus the Bombay Presidency was divided into four "areas" (they were not described as constituencies in the electoral rules), namely, the Southern, Northern and Central Divisions and the City of Bombay.

The double vote of the Muslims and the differentiation of their franchise.

18. The double vote possessed by Muslims was a source of grievance to other communities, who also resented the fact that in the special Muslim constituencies the franchise which was based upon property, educational and service qualifications went lower than the franchise in the general constituencies. The necessity for devising special electorates for Muslims in place of the utilisation of machinery already to hand in the shape of existing bodies, institutions and associations, or by the adoption of standards such as the payment of land revenue, had in effect resulted in the creation of special franchise lists reaching much lower down in the social scale; and in consequence in many provinces there were persons with property or other qualifications who had a vote if they were Muslims, but not if they belonged to any other creed. There were no special constituencies for Muslims either in the Punjab, where it was felt that they would secure sufficient representatives in the general constituencies, or in Burma and the Central Provinces, where their numbers are insignificant. In the remaining provinces, except Assam, the total strength of the Councils was 50: the special Muslim constituencies varied from 2 in Madras to 5 in Bengal. In Assam the strength of the Council was 30, and there were 2 special Muslim constituencies. Under the regulations for the constitution and functions of the Legislative Council of the Governor-General issued on November 15, 1909, and revised in 1913, the Additional Members of the Council were sixty in number including five elected by special Muslim constituencies, one each for the three Presidencies, one for the United Provinces, and one for Bihar and Orissa.

Summary. 19. The most important point to stress with reference to the introduction of special Muslim electorates at the time of the Morley-Minto reforms was that they were accepted as an item in the generally approved policy that representation in the Councils should be representation of the various communities, classes and interests of which the country was composed. The need for securing adequate Muslim representation was recognised no less in 1892 than in 1909. When speaking on the 1892 Bill in the House of Lords Lord Kimberley had said "there must be found some mode in India of seeing that minorities such as the important body of Muslims are fully represented". The reforms of 1892 were found to have failed to secure the adequate representation of Muslims, and it was in these circumstances that Parliament accepted the solution of special Muslim constituencies. In the circumstances of the case it would not be entirely accurate to describe the creation of a Muslim electorate, at the time when the elective principle was first openly recognised, as a novel departure from a previously accepted policy; in effect, these separate electorates confirmed the policy already accepted of representation by interests, including communal interests. Secondly, the acceptance by Lord Morley of communal electorates on behalf of His Majesty's Government requires to be read in the closest possible relation to the nature of the reforms which were being introduced at the time. The limited extent of those reforms was expressed in Lord Morley's well-known disclaimer—"If it could be said that this chapter of reforms led directly or indirectly to the establishment of a parliamentary system in India, I for one would have nothing to do with it". With regard to the manner and form of the Muslim electorates of 1909, the three points deserve to be borne in mind—

(1) that the Muslim electorates were superimposed upon the general electorates, in which also qualified Muslims were competent to vote;

(2) that the political importance of the community as distinct from its numerical strength was accepted by Lord Morley as a basis for special representation;

(3) that the franchise in the Muslim constituencies, which elected direct to the Councils, was

wholly different from the franchise qualifications in the general constituencies, in which the district boards and municipalities intervened between the primary voters and their representations in the Councils.

CHAPTER IV.

The Lucknow Pact of December 1916.

The Lucknow Pact.

20. In the course of the year 1915 there had been a definite rapprochement between some of the leaders of advanced Hindu and advanced Muslim opinion. The All-India Muslim League, which had until that time existed mainly for the protection of Muslim interests, had gradually passed under the control of those members of the young Muslim party who upheld the new ideal of self-government for India. Towards the end of 1916 when it had become known that Lord Chelmsford's Government was engaged on an elaborate scheme of post-war reforms, nineteen members of the Imperial Legislative Council put together and published a scheme of their own. This scheme figured on the list of business which came up for consideration in the Lucknow meetings of the Congress and of the Muslim League held in December 1916. As a result of skilful negotiations, the Muslim League under the guidance of the young party of political Muslims agreed to accept the modified scheme of the nineteen members on condition that the interests of their community were safeguarded by the concession of very heavy Muslim representation upon certain of the proposed councils. This compact was ratified at Lucknow, the net result being that the Congress and the Muslim League jointly accepted the scheme of the nineteen members as amplified and amended in certain particulars. The Congress-League scheme comprised direct election, so far as possible on a territorial basis, and separate electorates for Muslims who, however, were not to be permitted to vote in the general electorates. The portion of the scheme relating to the communal representation of Muslims read as follows :—

> "Adequate provision should be made for the representation of important minorities by election, and the Muslims should be represented through special electorates on the provincial

Legislative Councils in the following proportions :—

Punjab . .	One-half of the elected Indian members.
United Provinces .	30 per cent.
Bengal . . .	40 per cent.
Bihar and Orissa .	25 per cent.
Central Provinces .	15 per cent.
Madras . . .	15 per cent.
Bombay . .	One-third."

In regard to the Indian legislature the scheme proposed—

(1) that its strength should be one hundred and fifty ;
(2) that four-fifths of the members should be elected ; and
(3) that the franchise should be widened as far as possible on the lines of the Muslim electorates, and the elected members of the Provincial Legislative Councils should also form an electorate for the return of members to the Imperial Legislative Council.

Its bearing on the representation of the communities.

21. The effect of the Congress-League scheme can be judged from the following table which gives a comparison of the representation suggested for Muslims with the representation which they enjoyed under the Morley-Minto scheme in the Councils in existence at the time when the Lucknow Pact was ratified :—

Province.	*Population.	Muslim population.	†Strength of Council in 1917.	‡No. of sitting Muslim members and percentage.	Percentage proposed under Congress League Scheme.
Bengal . . .	44·5 millions .	24 millions or 52·6 per cent.	48	5 or 10·4 per cent.	40 per cent.
Bihar and Orissa .	34·5 „ .	3·7 millions or 10·5 per cent.	40	4 or 10 per cent.	25 „
Bombay . .	19·7 „ .	4 millions or 20·4 per cent.	42	4 or 9·5 per cent.	33·3 „
Central Provinces .	13·9 „ .	·6 millions or 4·3 per cent.	24	*Nil*	15 „
Madras . .	41·4 „ .	2·7 millions or 6·5 per cent.	41	2 or 4·8 per cent.	15 „
Punjab . .	20 „ .	11 millions or 54·8 per cent.	28	§*Nil*	50 „
United Provinces	47·2 „ .	6·7 millions or 14 per cent.	47	4 or 8 per cent.	30 „

*Figures from census of 1911.
† The figures exclude seats for experts.
‡ Elected by the Muslim community.
§ No seats reserved for Muslims, but there were at the time seven Muslim members of whom five were elected.

The percentage of Muslim seats to the Muslim population worked out as follows :—

Province	Muslim percentage of population.	Percentage of Muslim seats proposed.	Percentage (2) of (1).
	1	2	3
Bengal . .	52·6	40	76
Bihar and Orissa . .	10·5	25	238
Bombay . . .	20·4	33·3	163
Central Provinces . .	4·3	15	349
Madras . . .	6·5	15	231
Punjab . .	54·8	50	91
United Provinces . .	14·0	50	214

The result would have been that while Bengal Muslims would have obtained only three-quarters and the Punjab Muslims nine-tenths of what they would receive upon a population basis, the Muslims of other provinces received extremely liberal representation. These concessions indicated the extent to which Congress leaders were prepared to go in order to secure the adherence of Muslims to their reforms proposals. The system of communal representation proposed in the Congress-League scheme, and accepted in principle in the reforms o 1919, laying down hard and fast proportions of Muslim representation went far beyond the Morley-Minto system of communal representation in which a number of special Muslim seats were superimposed over and above the general constituencies in which Muslims might vote in order to adjust inequalities in representation. This brought the position closer to that adopted by those who, as mentioned in paragraph 11 of this note, were described in 1909 as the extreme separatists who favoured the complete isolation of the communities. Lastly, the Lucknow Pact included separate Muslim electorates in the Punjab and the Central Provinces, where they had not yet been introduced.

CHAPTER V.

The Reforms of 1919.

The views of the Joint Authors.

22. The views of the Joint Authors on the subject of communal electorates as expressed in paragraph 227 and the immediately succeeding paragraphs of their report have been cited in the first paragraph of this note; but no reference has yet been given to the views expressed by the Joint Authors in paragraph 225 of their report on the manner in which in their opinion the electorate should be formed. After giving reasons why they refrained from any definite proposals for the composition of the electorate, they made clear the broad principles on which they considered that the electorate should rest. Thus—

> "The first step must be not a hard and fast adjustment of the composition of the councils to the various interests of each province as estimated from headquarters, but a careful survey of all the material available in the province for an electorate. We must in fact measure the number of persons who can in the different parts of the country be reasonably entrusted with the duties of citizenship. We must ascertain what sort of franchise will be suited to local conditions, and how interests that may be unable to find adequate representation in such constituencies are to be represented."

The intention of the Joint Authors was therefore that as a matter of principle the representation of interests should not appear in the electorates; the last sentence, however, appeared to contemplate the possibility of constituencies for certain interests with special electorates of their own. Having in their view the introduction by progressive stages of a system of responsible government in India, the Joint Authors are seen therefore to have recommended a franchise system capable of development on democratic lines. Proceeding then to "the most difficult question which arises in connection with elected assemblies" namely communal electorates, for the reasons already stated, they decided that they must be retained for Muslims and introduced for Sikhs (in the Punjab); the arrangements to be made they left undefined, and they did not express any opinion on the extent of

Muslim representation suggested in the Congress-League Scheme; but

(*a*) they agreed with the authors of that scheme that Muslims should not have votes both in their own special and in the general electorates (paragraph 163), and

(*b*) they recorded their opinion that there should be no separate communal representation for Muslims in any province where they formed a majority of the voters (paragraph 231).

It was not known at that time how the voting strength of the community would work out, but the Congress-League scheme conceded communal representation for Muslims in all provinces (except Burma which was not mentioned); and in so doing supported the extension of these electorates to the Punjab and the Central Provinces where they had not then been introduced.

The Franchise Committee's proposals.

23. The problem of communal electorates was expressly mentioned in the terms of reference to the Franchise Committee who were required *inter alia* to advise:—

> how far representation can be adequately and effectively secured by territorial electorates, or where circumstances seem to require it in order to secure adequate representation of minorities, of special interests or of backward classes by (i) special or communal electorates; or (ii) reserving elective seats for special classes in plural constituencies, or (iii) nomination in such measure as the exigencies of fair and adequate representation entail; or (iv) other expedients for instance proportional representation, etc.

It is no part of this note to examine the extent to which the Franchise Committee succeeded in proposing an electorate, based not upon interests, but measuring "the number of persons who can be reasonably entrusted with the duties of citizenship", but the Committee in paragraph 10 of its report came to an early decision that there should be "the same qualification for all communities within the same area, although this will enfranchise a smaller proportion of

Muslims than of non-Muslims". Muslim representation then was to be secured not by separate electorates, with different franchise qualifications but by a separate register prepared from the same general body of electors for separate Muslim constituencies; for in considering the problem of communal representation the Committee decided (paragraph 15) not merely that Muslims must have separate representation in all provinces (Burma was not under discussion), but (paragraph 16) that there should also be separate communal representation for Sikhs in the Punjab, (as recommended by the Joint Authors), together with (paragraph 17) communal representation for Indian Christians in Madras; for Europeans in Madras, Bombay, Bengal, the United Provinces and Bihar and Orissa; and for Anglo-Indians in Madras and Bengal. The Committee received a number of other claims to communal representation from minority communities, for instance, the Mahishyas of Bengal and Assam, the Marwaris of Calcutta, the domiciled Bengali community of Bihar and Orissa, the Ahoms of Assam, the Mahars of the Central Provinces, the Oriyas of Madras and the Parsis of Bombay. These claims they dismissed. On the subject of the Mahrattas and allied castes in the Deccan and Southern divisions of the Bombay Presidency, there was some difference of opinion among the members of the Committee, but the majority were of opinion that no special treatment was required. Lastly, the problem was raised in a very acute form by the claim of the non-Brahmans of the Madras Presidency to communal representation. The Committee felt itself unable (paragraph 20) to recommend the constitution for non-Brahmans of a separate communal electorate (that is to say separate communal representation drawn from a separate register) and added—"Whatever value and propriety such a measure may have for protecting a minority against the pressure of other communities or interests, it would be unreasonable to adopt this expedient for protecting a community which has an overwhelming electoral strength". The Committee left the problem of the non-Brahmans undecided, with the expression of their hope that before the electoral machinery was completed, the parties to the controversy might have agreed upon some solution of the question, for example, by the provision of plural member constituencies and a certain proportion of guaranteed non-Brahman seats.

With regard to the proportion of Muslim seats, the Committee felt themselves bound by the terms of the Lucknow Pact, and gave their reasons in the following terms:—

> "The great majority of Indian witnesses and the representatives of associations, political and non-political alike, not excluding those in which Hindu interests preponderate, adhered to this compact, and it seems to us that any departure from its terms would revive in an aggravated form a controversy which it has done much to compose. In the provinces of Bombay, Bengal, the United Provinces, the Punjab and Bihar and Orissa, the local Governments recommended us to adhere to the compact whilst the Madras Government provided in the first of its alternative schemes approximately the proportion of Muslim representation which the compact fixed. In the interests of India as a whole, we have, therefore, felt ourselves amply justified in accepting the compact as a guide in allocating the proportion of Muslim representation in the Councils."

The Committee recommended separate communal seats for Muslims, Sikhs and European Commerce in the Assembly, and for Muslims and Sikhs in the Council of State. The formation of the Council of State was subsequently wholly changed on the recommendation of the Joint Select Committee of Parliament and the proposals of the Franchise Committee for indirect election to both bodies were set aside. The detailed recommendations of the Franchise Committee on this subject need not therefore be examined in this note.

Muslim anxiety.

24. The condemnation of communal electorates in paragraphs 228, 229 and 230 of the Joint Report had given rise to fears among Muslims that they might lose their special representation under the reformed system of Government. His Excellency Lord Chemsford therefore took the opportunity in September 1918, shortly before the Franchise Committee sat, of including in his speech at the opening of the Imperial Legislative Council a re-assuring statement on the subject of communal representation. The

words which His Excellency used were as follows :—

> ".....Hon'ble Members will probably expect something from me on the vexed question of communal representation. I cannot help thinking that much more has been read into our proposals than they were intended to convey. We wished indeed to make it clear that in our opinion communal electorates were to be deprecated for the reasons set out in our report. But it was in the main to the method of securing communal representation by communal electorates that we took exception, and not to communal representation itself. The careful reader of the report will see that we regard this as inevitable in India and that we clearly contemplate the representation of those communities and classes and interests who prove their case before the Committee shortly to be appointed to examine the question. I am most anxious that the fullest representation should be secured to the various classes and communities in India ; but I am frankly doubtful myself whether the best method for securing that representation is through a system of separate electorates. However, I am content to leave the unravelling of this important question in the hands of the Committee, who will have the fullest evidence placed before them and will be free to make such recommendations as they think right unfettered by our Report."

The Government of India's Fifth Reforms Despatch.

25. The views of the Government of India on the recommendations of the Franchise Committee on the subject of communal representations were expressed in paragraphs 18 to 27 of their Fifth Reforms Despatch No. 4, dated the 23rd April 1919. In the first place, they drew attention to the fact that communal electorates were now proposed not only for Muslims everywhere and for Sikhs in the Punjab, but also for Indian Christians in Madras, Anglo-Indians in Madras and Bengal, and Europeans in the three Presidencies, the United Provinces and

Bihar and Orissa The Government of India then observed—

> "...We feel the objections of principle to the communal system as strongly as the authors of the Reforms report, but see no advantage at this stage in reiterating them. India is not prepared to take the first steps forward towards responsible Government upon any other road. The road does not lead directly to that goal and we can only echo the hope expressed by the Committee that it will be possible at no very distant date to merge all communities in one general electorate. Under existing conditions we see no ground on which the Committee's proposals can be questioned. As regards the minor communities we accept the details also, except in so far as the distribution of the elective seats for Europeans requires further examination in communication with local Governments, in as much as the Committee do not appear to have considered the complication introduced by the presence of a large military population."

Having accepted the recommendation of the Franchise Committee that separate communal representation must be retained for Muslims and extended in certain provinces to other minority communities, the Government of India then proceeded to discuss the number of seats to be given to the Muslims. They noted that local Governments had not been unanimous in subscribing to the Lucknow Compact as giving a guide according to which the proportion of representation should be fixed and drew attention to the fact that the Government of Madras had framed their own proposals for Muslim representation without regard to the compact. The Bombay Government, while adopting the compact, did not rule out from discussion a scheme of representation on the basis of population. The Chief Commissioner of the Central Provinces was opposed to separate Muslim electorates and considered that the percentage proposed in the compact was wholly disproportionate to the strength and standing of the community. The Chief Commissioner of Assam thought it was a mistake, even

from the Muslim point of view, to give that community representation in excess of their numerical proportion. The authors of the Reforms report had laid it down that the effect of the agreement upon other interests must be examined, and they had also set aside as wholly unworkable the second provision in the compact (not previously mentioned in this note) by which proposals affecting the interests of other communities should be considered in the legislatures only with the assent of the large majority of the community affected. The Joint Authors, moreover, had thought that special electorates for Muslims could be admitted only in provinces where they were in a minority of voters. The Franchise Committee had found from their rough estimates that Muslims would be in a minority of voters both in Bengal and in the Punjab. As regards Bengal the Government of India agreed that the Committee was clearly right: as regards the Punjab their own calculations went to show that the Muslim voters were in a slight majority over the combined strength of Hindu and Sikh voters, but the margin was not great and it was possible that actual enumeration might convert it into a minority. However that might be, the Muslims were in any case far the strongest single community in the Punjab, and, as the Sikhs claim to separate representation was to be conceded, it was clearly considerations of expediency rather than logic that would place the large majority of residuary voters in separate constituencies. Lastly, the Government of India drew attention to the effect of the Congress-League agreement in giving the Bengal and Punjab Muslims less than they would receive upon a population basis, while the Muslims of other provinces received, some of them, extravagantly good terms. The Government of India were of opinion that the proportions laid down in the Lucknow Pact could not be taken to represent the right relation either between Muslims in different provinces or between Muslims and the rest of the communities.

The Government of India then proceeded to suggest certain considerations which they would themselves have borne in mind, had they possessed an entirely free hand to establish a ratio of Muslim seats which would bear a closer relation with their strength as a community, while at the same time fulfilling undertakings given to Muslims to safeguard them as a minority. The considerations which the Government of India stated that they

would necessarily take into account were five in number—

(1) The Muslims had been definitely promised some electoral advantage on the ground of their political importance.

(2) The Muslims are the poorer community, and, therefore, any property qualification common to them and the Hindus would make the Muslim electorates smaller in proportion to the Muslim census than would be the case with the Hindus.

(3) The census strength of the Muslims does not correspond to their political strength. In Bengal and Assam the Muslims are politically weaker than their numbers would indicate while in the United Provinces with 14 per cent. of the population they are incomparably stronger than in Bihar and Orissa with 10·5 per cent.

(4) Though a majority can always impose its will upon a minority, the effectiveness of a minority depends upon its being large enough to have the sense of not being entirely overwhelmed.

(5) Whatever advantage is given to the Muslims is taken away from some other interest or interests.

The Government of India concluded that these considerations would suggest a system of weighting leading to very different results from those agreed upon at Lucknow; they took the view however that the Congress-League compact was an accomplished fact and a landmark in Indian politics which they could not possibly ignore; they felt, therefore, like Lord Southborough's Committee, that whatever the defects of the compromise it was not one that they ought to reopen. They, therefore, accepted the conclusions of the Committee in favour of the proportions agreed upon in the Lucknow Pact with one exception. The Government of India felt that the Muslim representation proposed for Bengal was manifestly insufficient; they doubted whether the claims of the Muslim population of Eastern Bengal had been adequately pressed when the Congress-League compact was in the making. They recommended, therefore, that the Bengal Muslims should be allotted 44 seats instead of 34 and left it for further

consideration whether the addition should be obtained by enlarging the Council or by withdrawing seats from other interests or by a combination of both plans. One member of the Executive Council of the Governor General was in favour of accepting the Committee's report

The Government of India agreed with the Committee that there was no justification for admitting the claims for separate electorates put forward by the smaller communities mentioned in paragraph 18 of their report, but stated that they had the greatest difficulty in accepting the proposals of the Committee in regard to the non-Brahmans in Madras. They felt that Government could not evade responsibility for ensuring the adequate representation of the non-Brahmans. They thought that the Committee had possibly not attached sufficient weight to the immense power of the Brahmans in combination. In the opinion of the Government of India recent experience in Madras had shown how inadequately non-Brahmans were likely to be represented in Council unless some special provision were made for them. The Government of India considered that they would find it hard to meet the charge that they were acquiescing in the establishment of an oligarchy in Madras unless something were done to secure to the non-Brahmans a fair share in the legislature, and that it would be a mistake to complete the electoral arrangements and leave it to the non-Brahmans to move. They added that they wished to consult the Madras Government in regard to the reservation of non-Brahman seats in plural constituencies. They observed, moreover, that if divisions in the Hindu community were once recognised in the electorate, as in the case of non-Brahmans in Madras, it would become extremely difficult to resist the claims of the Mahrattas in Bombay. This also was a matter which the Government of India wished to reserve for further consideration with the Government of Bombay.

There were some differences between the Government of India and the Franchise Committee on the extent of communal representation in the Central legislature. The Committee had applied the Congress-League compact, which related to the Indian legislature as a whole to the Assembly as a unit by itself, and recommended 24 Muslim seats out of 73 Indian elected seats: the Government of India based their proposals on Muslim strength in the different provinces and suggested

12 Muslim seats out of 69 Indian elected seats. The Government of India were, however, prepared to accept the Committee's proposals, with one dissentient who thought the Muslim representation excessive. In the opinion of the Government of India the Committee had unduly restricted European representation on the Assembly; they reserved their opinion on that point. With regard to the Council of State after opposing the Committee's suggestions for the form in which it should be elected, the Government of India stated that they did not attach the same weight as the Committee had done to the need for nicely adjusting the claims of the provinces and the communities; their aim was the representation of all important interests on a broad scale, and nomination would be used to adjust inequalities in communal representation.

The report of the Joint Select Committee of Parliament.

26. We can now turn to the recommendations of the Joint Select Committee of Parliament, noting at once that contrary to the recommendations of the Franchise Committee, the Select Committee required direct election to both chambers of the Indian legislature and also insisted upon the constitution of the Council of State as "a true second Chamber". The Select Committee avoided entering into any discussion of the arguments for or against communal electorates, but—

(1) differing from the Government of India they accepted "the recommendations of the Franchise Committee in respect of the proportionate representation of Muslims, based on the Lucknow pact";

(2) they considered that in the Madras Presidency the non-Brahmans must be provided with separate representation by means of the reservation of seats. The Brahmans and non-Brahmans should be invited to settle the matter by negotiation among themselves; and it would only be, if agreement cannot be reached in that way, that the decision should be referred to an arbitrator appointed for the purpose by the Government of India.

(3) The Committee recommended that similar treatment should be accorded to the Mahrattas in the Bombay Presidency.

(4) The Committee recommended that the Government of India should be instructed to consult with the Government of Bengal in respect of the representation of Europeans in Bengal. It appeared to the Committee that there were good reasons for a readjustment of that representation. The recommendations of the Franchise Committee in respect of European representation in other provinces were accepted.

On the subject of the representation of minorities the Joint Select Committee of Parliament contributed one suggestion. They said that it seemed to them that—

> " the principle of proportional representation may be found to be particularly applicable to the circumstances of India,"

and they recommended that—

> "this suggestion be fully explored so that there may be material for consideration by the Statutory Commission when it sits at the end of ten years ".

The debates in Parliament on the Government of India Bill.

27. The problem of communal representation and communal electorates was discussed both in the House of Commons and in the House of Lords when the Government of India Bill was under consideration. On the 3rd December 1919, Colonel Wedgwood moved an amendment to the clause on the composition of the provincial councils to the effect that "at least 60 per cent. of the elected members shall be elected by territorial electorates." In the course of his speech he criticised both the Southborough Report and the Joint Committee for having "widened enormously the scope of special representation "; he expressed himself strongly on the evils of communal representation in particular, and said—

> "The principle on which English representation has been based is that the members represent the whole of the community, and to adopt for India an entirely different system, whereby the representatives represent different sects and religions, is going back on all the principles which have made representation in the

> House of Commons a model for all other Parliaments in the world. It is most unfortunate that this Bill has been whittled down to establish this communal representation."

Mr. Montagu explained that no one objected to communal representation more than he did ; he believed it to be a great mistake, but there was one mistake which would be greater, and that would be to get Legislative Councils in India that were not properly representative of all classes Mr. Montagu added that if communal elections were provided for temporarily in order to secure proper representation, he believed that they were well worth having. Mr. Spoor, himself a member of the Joint Select Committee, welcomed so definite a pronouncement against communal representation from the Secretary of State, but said that, when sitting with the Joint Committee, his own impression had been that any form of communal representation was neither desirable nor necessary, even in the early stages of the transfer of powers. Other speakers emphasized the strength of feeling in India on the need for separate communal representation in the conditions of the country, and Colonel Wedgwood's amendment was negatived without a division.

In the House of Lords, where Lord Curzon congratulated the Joint Select Committee on "extending in some quarters communal representation ", criticism took a rather different line. Lord Ampthill moved an amendment to insert statutory provision to secure communal electorates for Muslims in all provinces, for Sikhs in the Punjab, for Europeans in Bengal, and for Shudras among Hindus. Lord Lamington wanted reserved seats for the non-Brahmans safeguarded by provision in the Act. The same point of view was upheld by Lord Sydenham, who said that if the principle of communal representation were recorded as part of the Bill, it would bring contentment and might prevent serious unrest among the non-Brahmans of Southern India. On behalf of His Majesty's Government Lord Sinha stated that if in the opinion of the Government of India there were any communities which required separate representation by communal electorates or by reservation of seats or otherwise, neither the Bill nor the Joint Select Committee's Report precluded them from giving it. Lord Ampthill's amendment was lost by 7 votes to 27.

Revised recommendations of the Government of India for representation in the Central legislature.

28. In the meantime the Government of India were engaged in revising the recommendations made in their Fifth Reforms Despatch on the lines indicated by the Joint Select Committee of Parliament. Local Governments were consulted and revised schemes for the constitution of the Indian and Provincial Legislatures were submitted to the Secretary of State early in 1920. For the Legislative Assembly out of 103 elected seats (including one technically nominated seat to be filled by nomination as the result of an election held in Berar) the Government of India recommended 30 seats for Muslims, 2 for Sikhs and 9 for Europeans. In the Council of State, out of 32 elected members, the Government of India recommended 10 seats for Muslims and 1 for Sikhs In addition (by the representation of commercial interests) 3 seats were reserved for Europeans. In submitting their proposals to the Secretary of State, the Government of India observed with reference to the distribution of seats in the Legislative Assembly that any scheme of distribution had to satisfy two exacting conditions; it must secure to each province its fair share of the total representation, and it must provide for Muslim representation on the lines of the Lucknow Pact. It was found impossible consistently with these conditions to distribute the general and Muslim seats in each province in strict accordance with the proportions adopted in the case of provincial Legislative Councils.

When these proposals were under preparation the Government of India received a number of further requests for new or increased communal representation, and these they refused. In view of the suggestion made by the Joint Select Committee of Parliament the Government of India investigated the use that might be made of the system of proportional representation, and came to the conclusion that there was no chance whatever of the system being accepted by Muslims as a means to dispense with communal seats.

It may be noted in passing that so far as elections to the legislatures are concerned the system of proportional representation by means of a single transferable vote has been confined to three constituencies only, namely—

(1) the Madras non-Muhammadan constituency of the Council of State,

(2) the Bengal European constituency of the Legislative Assembly, and

(3) the Presidency and Burdwan European constituency of the Bengal Council.

Provision, however, has been made in the electoral rules of the various legislatures to the effect that if a resolution in favour of the introduction of proportional representation is passed, the Government may for any plural member constituencies introduce the method of election by means of the single transferable vote and may make all necessary regulations for the purpose, and to that end may group together single member constituencies so as to make new plural member constituencies No use has yet been made of this provision in the electoral rules by any provincial Council or by either chamber of the Indian legislature.

Revised recommendations of the Government of India for representation in the Provincial legislatures.

29. In the revised proposals submitted by the Government of India for carrying out the recommendations of the Joint Select Committee of Parliament with regard to the constitution of the provincial legislative Councils, effect was given to the injunction of the Joint Committee that the proposals of the Franchise Committee in respect to the proportional representation of Muslims based on the Lucknow compact should be accepted. An exception was, however, made in the case of the Punjab Legislative Council for which the Government of India proposed to fix the percentage of Muslim seats on the basis of the territorial seats only without including the non-territorial special constituencies in the calculation. The Government of India observed that as the Muslims in the Punjab formed more than half the population it seemed reasonable to assume that they would secure their fair share of the latter seats. The adoption of the Lucknow compact had given rise to claims by the Sikhs which the Government of India were unable to accept, but which were undoubtedly regarded by the Sikh community as warranted by the concessions accorded to the Muslims. The claim put forward and persistently pressed by the Sikhs both in representations to the local Government and to the Government of India was for one-third of the total number of elected seats in the Punjab Legislative Council. The proposal of the local Government on the other hand was that the Sikhs, who constituted 10·7 per

cent. of the provincial population, should be allotted 10 out of 58 elected seats or in other words 17 per cent., which gave them as much as was consistent with the just treatment of the Hindus who formed 34 per cent. of the population. In order to satisfy the claims of the Sikhs it would have been necessary either to revise the Lucknow Pact in relation to the Punjab or to commit injustice to the Hindus: for that reason the Government of India did not support any addition to the 10 seats recommended by the local Government.

The representation of Europeans in Bengal was further examined. The Bengal Government proposed that out of 116 elected seats the number of European and Anglo-Indian seats should be fixed at 21. This would comprise 12 seats for European commerce, 6 general European and 3 Anglo-Indian seats. The Government of India considered the proposal of the local Government to be in accordance with the views of the Joint Committee It extended to the European community the principle which was being applied in the case of other minorities, and assigned to them a representation which was felt to be not greater than their importance in the province and the protection of their legitimate interests required.

In Madras the Brahmans and non-Brahmans failed to come to terms, and Lord Meston was appointed to arbitrate. He awarded the non-Brahmans 28 out of 65 seats which they regarded as inadequate. The Government of India supported Lord Meston's award.

Similarly, in Bombay negotiations between the Mahrattas and non-Mahrattas failed, and Sir John Heaton was appointed to arbitrate. In his award, which was supported by the Government of India, he recommended special Mahratta representation in seven constituencies; in three other constituencies, a seat was to be reserved by rotation for a Mahratta representative. The award contained one interesting feature. Since reservation was an experimental device the arbitrator considered it desirable to leave to absolutely free election one multiple constituency in which a distinct majority of the population was Mahratta. The Satara District constituency was selected for this purpose.

The second report of the Joint Select Committee of Parliament.

32. When these proposals came before the Joint Select Committee of Parliament they accepted the award for the

reservation of seats for non-Brahmans in Madras and made one small change in the Mahratta award omitting any reservation of a seat for Mahrattas in one of the non-Muhammadan constituencies of Bombay city. The Committee then dealt with certain objections raised by the Madras non-Brahmans with regard to the method of reservation of seats and observed :—

> "The Committee's intention in recommending the reservation of seats for the non-Brahman and Mahratta communities was to ensure that granted sufficient candidates were forthcoming there should be at least as many non-Brahmans or Mahratta representatives returned by a constituency as there were seats reserved. The claim advanced by non-Brahmans that should a non-Brahman head the poll in a two-member constituency in which one seat is reserved, the reserved seat should remain reserved for a second non-Brahman and that the latter should be elected to it in preference to a Brahman candidate who was second in the poll, is entirely inconsistent with the Committee's intentions"

The Committee discussed the European and Anglo-Indian representation on the Bengal Council and reduced the number of seats from 21 to 18.

Representation by nomination.

31. In addition to communal representation obtained either by separate communal constituencies or the reservation of seats the draft electoral rules prepared by the Government of India provided for communal representation by nomination; for instance, in the composition of the Madras Council the provision was made for the nomination by the Governor of 34 members of whom not more than 19 may be officials. The Governor, however, was not left a free-hand in the nomination of the remaining 15 since under the rules—

> "11 shall be persons nominated as follows, namely—
>
> (i) ten to represent the following communities, namely Paraiyans, Pallans, Valluvans, Malas, Madigas, Chakkiliyans, Tottiyans, Cherumans, and Holeyas, and
>
> (ii) one to represent the inhabitants of backward tracts."

In the Assam electoral rules similar provision is made that two of the nominated members shall be non-official persons nominated to represent respectively, (1) the labouring classes and (2) the inhabitants of backward tracts. In the electoral rules of other provinces similar limitations will be found on the discretion of the Governor in the exercise of his right of nomination, but with regard to Madras and Assam only, the Joint Select Committee made an addition enabling (but not requiring) the Governor to make rules in accordance with which the community specified in the rule as to be represented by nomination may select persons from whom the Governor may make his choice. The Joint Select Committee expressed their reasons for this addition in the following terms :—

> "A similar provision was made in the Indian Councils Act 1892 which may be said to have initiated the process of election to legislatures in India, and the Committee think that such a provision if the Governor finds it possible to act upon may pave the way for an election proper by educating backward communities in the advantages and responsibilities it involves."

No regulations to that effect have, however, yet been framed either by the Government of Madras or by the Government of Assam.

CHAPTER VI.

Communal representation in Burma.

The Burma Reforms Committee's Report.

32. The province of Burma was not included in the Reforms scheme until 1921 when a notification No. 225, dated the 7th October 1921, was issued under section 52A of the Government of India Act, constituting Burma a Governor's province. With the issue of that notification a committee of officials and non-officials was appointed to advise as to the rules which should be made in order to apply to Burma the provisions of the Government of India Act relating to Governors' provinces (as modified by the notifications). The particular modifications which require mention are that the number of members of the Legislative Council of Burma was fixed at 92 and the percentage of elected members at 60 per cent. instead of 70 per cent. This Committee was boycotted by a considerable number of important political associations in Burma but completed its

enquiry from the material available. The question of communal representation was considered in chapter 4 of the Committee's report from which the following extract is taken :—

> " The Committee set out on its enquiry in the hope that a general electorate unadulterated by any device for the special representation of minorities might satisfy the needs of Burma. We were, and still are, unanimously of opinion that communal electorates are an undesirable feature in any representative system, but theory in this case, as in India, has had to give way to fact; and, in the face of the evidence presented, we have no course but to recommend certain special measures for minority representation."

The Committee then made the following comments on proportional representation :—

> " In the first instance we made it our endeavour to examine the problem with a view to the application of proportional representation, but the evidence does not justify us in recommending it at present. None the less, we desire to record our opinion that in any further constitutional development, proportional representation will probably offer the most satisfactory manner of securing the representation in question."

In order to secure minority representation the Committee adopted communal representation for the European and Anglo-Indian communities and the reservation of special seats in certain plural member constituencies for the Indian and Karen communities. They proposed two separate electorates for Europeans and Anglo-Indians, because they saw little or no possibility of securing their representation in any other way. The Indian and Karen communities, on the other hand, were more closely linked with the fortunes of the province as a whole and might be expected ultimately to take a normal place in Burmese politics. For that reason the Committee considered it undesirable to segregate them completely from the general electorate. They therefore, placed them on the ordinary electoral roll, but did not feel justified in

depriving them altogether of some guarantee of representation

Three minutes of dissent.

33. The two Burman members of the Committee expressed themselves very strongly against any form of communal representation or reservation of seats in Burma and expressed their views at length in separate minutes of dissent. The Indian member, Mr. Ginwala, stated that he agreed with the recommendations of the majority as to the reservation of seats though he felt that the Indian community had put forward and, in his opinion, established an overwhelming case for communal representation pure and simple.

The views of the local Government.

34. The recommendations of the Burma Reforms Committee on the subject of the communal representation of Indians and Karens led to some difference of opinion between the Government of Burma and the Government of India. The views of the Government of Burma were expressed in their letter No. 1035—3L-6, dated the 21st December 1921, and on the vexed subject of communal representation are reproduced in extenso —

> "...The local Government is opposed to the proposal that the special representation of the Indian and Karen communities should be secured by the reservation of seats in the general constituencies. The reservation of seats is an expedient which has been adopted in Madras to protect the non-Brahmans against the Brahmans whom they outnumber by 22 to 1. It was adopted largely because the minority in that case was strongly opposed to a system of communal electorates. But as a means of securing adequate representation for a minority it does not appear to have any advantages over a communal electorate pure and simple. And it has this very great and obvious disadvantage that it places the selection of the representatives of the minority in the hands of the voters belonging to the majority. Reservation of seats will not meet the views of those who have asked for communal electorates, nor does it meet the objections of those who are opposed to the constitution of such electorates. It is clear that the majority of

> the Committee have proposed it as a compromise, and as a compromise the local Government would have reluctantly agreed to it, had it been accepted by those whose divergent views it was desired to reconcile. But it has failed to achieve that result, and that being so the local Government considers that the only argument in its favour falls to the ground."

The Government of Burma claimed that the arguments in the Montagu-Chelmsford Report were chiefly directed against communal electorates for communities which are differentiated from the rest of the body politic only by religion or by caste; in the case of the Indians and Karens, the difference between them and the Karens is far wider and deeper and includes difference of race and language as well. (The Karens are a highly individualised Sinitic racial group numbering approximately one million out of a total population of about 11½ millions in the particular areas, outside the wholly excluded backward tracts, in which they are distributed). In accordance with the views mentioned above the Government of Burma proposed five urban constituencies in the towns of Rangoon, Mandalay, Moulmein, Bassein and Akyab for the election of seven Indian members; and five rural constituencies in five districts for the election of five Karen members. They agreed to communal electorates for one European and one Anglo-Indian seat.

The views of the Government of India.

35. Considerable space was devoted to the subject of communal representation in Burma in the Government of India's despatch No. 2, dated the 31st March 1922, addressed to the Secretary of State. Their comments on Karen representation contained a number of general expressions of opinion on the reservation of seats as a substitute for communal electorates, and as this solution has been suggested for Muslim representation in India those comments are here reproduced in full:—

> "The Committee proposed that the representation of Karens should be secured by the method of reserved seats. In our opinion this method may be a suitable one for securing the representation of a race or class where there is a large majority belonging to the race or class but where there is some doubt

whether the majority will, owing perhaps to the less extent of the political activities of its members, be sure of securing adequate representation. These conditions applied in the case of the non-Brahmans and Mahrattas in the Madras and Bombay Presidencies in which the adoption of this expedient was suggested by the Joint Select Committee, but neither of these conditions applies to the Karens in any other constituencies, except one, for which Karens reserved seats have been proposed by the Committee."

The Government of India then gave figures of the Karen population in those constituencies to support their argument that any scheme of reserved seats would, as argued by the local Government, place the selection of the representatives of the Karen minority in the hands of the voters belonging to the remaining races Though the Government of India agreed that the Karens should have communal seats they revised the distribution suggested by the local Government. They then added —

"While we accept the proposal to provide for communal representation to this extent we desire to emphasise that this is not communal representation on Indian lines. Generally speaking, the Karens have been merged in the general constituencies, and the Committee and the local Government have steered clear of the great complication of the electoral machinery which would have to be introduced if communal seats on Indian lines had been included wherever Karens are found. The Karen communal seats have been provided only where their numbers justify this and with the object of definitely securing some representation for them, though not, absolutely in proportion to the proportion which they form to the remainder of the population in the whole province. All the Karen constituencies will be rural constituencies."

The Government of India agreed with the Reforms Committee and with the local Government in rejecting any attempt to establish Indian communal constituencies throughout the province both for

rural and urban constituencies, and that the attempt to ensure definite Indian representation should be confined to those urban constituencies where their numbers justified it. They drew attention to the fact that the Committee's proposal was intended to secure not only the representation of Indians but also the representation of Burmans in urban constituencies: for example, in Rangoon the proposal was that 4 seats should be reserved for Burman candidates and three for Indian candidates. In the other four towns of Mandalay, Moulmein, Bassein and Akyab, the Committee definitely distributed all the proposed seats between Burman and Indian candidates. The Government of India decided to support the Committee's proposals in preference to the local Government's advocacy of communal electorates for Indians in those towns, but increased the Indian representation in Mandalay. One member of the Governor General's Council, however, dissented from this view, and considered that the method of reserved seats was as unsuitable for adoption for Indians in urban constituencies in Burma as for Karens in rural constituencies. He was in favour of confining communal representation for Indians to Rangoon, which he would divide into two constituencies each of which would return four members. The Government of Burma were apprised of these recommendations and took strong exception to the Government of India's distribution of Karen representation by divisions instead of districts, and adhered to their view that in certain urban constituencies there should be separate Indian electorates. In their view the reservation of seats for Indians in Rangoon would enable the Indian community completely to control the election of Burmans to seats reserved for Burmans, as Indians would predominate on the electoral roll and were strongly organised. The Government of India then communicated by telegram with the Secretary of State saying that they would accept the decision of the Secretary of State if he preferred communal representation for Indians.

Communal electorates for Indians and for Karens, together with separate European and Anglo-Indian constituencies approved by Parliament.

36. The various recommendations which had been made were placed before the Joint Standing Committee on Indian Affairs and in the electoral rules as finally approved by Parliament the recommendations of the Government of Burma for communal electorates for Karens in five districts were approved. The Indians were given communal electorates for eight seats in five urban con-

stituencies ; Anglo-Indian and European communal representation remained at one member each. In that respect the views of the local Government were preferred to the recommendation of the Government of India that there should be three seats for the European general constituency. In the debate in the House of Commons, Col. Wedgwood repeated his criticisms of communal representation by separate electorates.

The contents of five appendices.

37. Among the appendices attached to this note there are given statements shewing—

Appendix I.—The total population of British India, the Muslim population and its percentage to the total population and the percentage to the Muslim population of Muslims enfranchised for elections to the Provincial Councils.

Appendix II.—The distribution of seats in the Provincial Legislative Councils except Burma, together with figures for each province of the percentage of Muslim seats to the total elected seats compared with the percentage of Muslim seats in the Provincial Councils according to the Lucknow Pact.

Appendix III.—The distribution of seats in the Burma Legislative Council.

Appendix IV.—The distribution of seats in the Legislative Assembly with figures of the percentage of Muslim seats to the total Indian general seats and of the percentage of Muslim seats to the total elected seats.

Appendix V.—The distribution of seats in the Council of State.

CHAPTER VII.

COMMUNAL REPRESENTATION ON LOCAL BODIES.

The Muslim claim in 1906.

38. In paragraph 11 of this note an extract was given from the reply of Lord Minto to the Muslim deputation of 1906. After having stated that "any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the beliefs and traditions of the communities composing

the population of this continent", His Excellency proceeded—

> "...The great mass of the people of India have no knowledge of representative institutions. I agree with you, Gentlemen, that the initial rungs in the ladder of self-Government are to be found in the Municipal and District Boards, and that it is in that direction that we must look for the gradual political education of the people. In the meantime I can only say to you that the Muslim community may rest assured that their political rights and interests as a community will be safeguarded in any administrative reorganisation with which I am concerned".

These words, read in the context in which they were used, were commonly interpreted to guarantee the Muslims the communal representation on local bodies for which they had asked in their address which contained the following passage :—

> "...We would therefore respectfully suggest that local authorities should, in every case, be required to declare the number of Hindus and Muslims entitled to seats on Municipal and District Boards, such proportion to be determined in accordance with the numerical strength, social status, local influence and special requirements of either community. Once their relative proportion is authoritatively determined, we would suggest that either community should be allowed severally to return their own representatives, as is the practice in many towns in the Punjab".

Further support to the claim that Lord Minto accepted the principle of communal representation on local bodies was found in the passage in the Government of India's letter No. 2310-17, dated the 24th August 1907, quoted in paragraph 13 of this note, which is here again reproduced in view of the importance which it came to occupy as an expression of official opinion on the subject of communal representation on local bodies.

> "...As the constitution of the provincial legislative councils must largely depend upon the municipalities and district boards, it is suggested that local Govern-

ments should introduce into their systems of election and nomination for these boards the principle of assigning a fixed proportion of seats to each of the leading classes into which the population is divided by race, caste or religion, and permitting the members of that class to select its own representative."

It is important to observe that communal representation on local bodies was not suggested for adoption on its own merits, but in order to influence the distribution of representation in the legislative councils, in which provision was being made for special Muslim constituencies to be superimposed upon the general constituencies. As noted above the date of these instructions to local Governments was August 1907.

The recommendations of the Royal Commission upon Decentralization.

39. In September 1907 the Royal Commission upon Decentralization in India was appointed. Its report which was submitted in February 1909 contained important expressions of opinion on minority representation both on rural boards and on municipalities. The Committee's recommendations on the subject of methods of election to rural boards, on which a preponderance of elected non-official members was proposed will be found in paragraph 789 of the report. from which the following extract is taken :—

"——Having regard to the very different circumstances of different areas, we think it essential that the system adopted in each should be such as to provide for the due representation of different communities, creeds and interests. It has always been recognised that it is the duty of the British administration to protect the interests of the various communities in India, and to secure impartial treatment to all. Moreover, in the cognate matter of the selection of members for legislative concils, the discussions which resulted in the passing of the Indian Councils Act of 1892 embodied the emphatic testimony, not merely of distinguished Anglo-Indian officials, but of British statesmen, as to the necessity for securing special representation of Muslim and other minorities, and as to the danger of allowing undue predominance to any one class."

The only Indian member of the Commission, Mr. R. C. Dutt, recorded a note of dissent against this recommendation and said—

> "Separate election by castes and creeds is not known elsewhere in the British Empire, and would introduce a new element of discord and disunion if introduced in India. The British Government, while wisely exercising its power of nomination and appointment to help minorities and backward classes, has generally taught the people of India to ignore distinctions of caste and creed in civic life. A different policy, accentuating existing social and religious distinctions by attaching to them distinct political rights, is likely to breed dissensions and troubles in a country like India."

The remarks of the Decentralization Commission on the mode of election to municipalities were contained in paragraph 850 of their report, in which they said—

> '. . . As regards methods of election, we need only repeat what we have said in the case of sub-district boards, that members should be chosen in ways best suited to local conditions, as laid down in the Government of India Resolution of May 1882. The main object should be to secure an effective representation of the various classes in each town, and the selection of fit representatives . . . . A class system of representation, which exists in Rangoon, and in some of the Punjab Municipalities, seems to have worked fairly satisfactorily."

By 1909 therefore local Governments had before them two weighty expressions of opinion in favour of communal representation on local bodies, namely, in the suggestions of the Government of India in their letter No. 2310-17, dated the 24th August 1907, and in the recommendations of the Royal Commission upon Decentralization.

References in Parliament in the debate on the Indian Councils Bill, 1909.

40. We may now turn to references to the same subject when the Indian Councils Bill, 1909, was before Parliament. Lord Morley's statement in Parliament on the 23rd February 1909 of his readiness to meet the Muslim demand has already

been quoted in paragraph 15 of this note. On the 3rd March the Muslim League held a meeting in London and addressed a letter to the Secretary of State containing these words—

> "... We construe His Lordship's declaration as also applicable to the elections for district, municipal and rural self-governing bodies, as these elections have invariably been included in the Muslim appeal for adequate and distinct representation."

On the 19th April at the Committee stage Mr. Hobhouse stated in reply to Earl Percy that—

> "... The Secretary of State adheres in its fulness and completeness to what he had said—that the representation of Muslims was to be not merely sufficient, but in excess of their actual numerical right. The difficulty had been how to provide that representation without unduly increasing the number which it was possible to put on these Indian bodies. In a telegram received from the Viceroy as recently as the 12th April speaking of this representation and the methods of securing it to Muslims the Viceroy remarked ——The method proposed is simply that in general electorates, such as municipalities, district boards, provincial councils, all sects and classes including Muslims will vote together; by this means some but not sufficient representation will be obtained for Muslims; in addition a certain number of seats will be reserved for Muslims, and no one but Muslims will have a voice in filling them."

On the 27th April Lord Ronaldshay moved an amendment in the following terms to clause 1 of the Bill—

> "——Provided that the ratio of Muslim and Hindu representation on all representative bodies from the rural boards upwards to the Viceregal Council be fixed by executive authority and that in every case in which a seat on a representative body thus assigned to

> the Muslim community is to be filled by election, the necessary electorate be composed exclusively of Muslims."

Lord Ronaldshay referred to the Viceroy's telegram of the 12th April and said—

> "This appears to me to constitute a direct reversal of the pledge given by the Viceroy and emphasised by the Secretary of State. What the Muslims demanded was, so far as their elected representatives were concerned, an exclusively Muslim electorate for all bodies as they were promised by the Viceroy."

In other words Lord Ronaldshay identified himself with the position of the extreme separatists who favoured complete isolation. Mr. Hobhouse replied—

> "——The Secretary of State wished him to say that he stood by his declaration and did not abate it in any way whatever. The Viceroy said that the Muslim community claimed that in any system of representation whether affecting legislative councils or municipal or district boards they should be represented as a community, and he expressed his entire accord with that view. There had been no departure from that view nor from the policy declared by his noble friend in another place. But any one acquainted with the Government of India must be perfectly aware that the absolute fulfilment of any undertaking of that kind necessitated a separate register for Muslims. It was necessary that in framing rules and regulations the Government of India should consult the provincial authorities and it was not surprising that the local authorities found in the course of their enquiries that it would be impossible to carry out a uniform system . . . Wherever elections were found possible, they would be conducted on the basis of separate representation for Muslims."

On the 4th May Lord Morley read a telegram from the Viceroy containing these words—

> "I do not understand any Muslim here to claim concessions suggested—namely that wherever elections are found possible they should be conducted on basis of separate representation of Muslim community. If interpreted literally that would involve having separate Muslim electorates within the various electorates proposed such as presidency corporations, district boards and municipalities. This is manifestly impossible."

Shortly after this, resolutions were passed by the London and Indian branches of the Muslim League and letters appeared from various leading Muslim gentlemen re-affirming the claim for separate representation through all stages.

The problem left undecided.

41. It is not necessary to trace in detail the course of the correspondence between the Government of India on the subject of communal representation on local bodies whether with reference to their circular letter No. 2310-17, dated the 24th August 1907, or on the recommendations of the Decentralisation Commission. (Broadly speaking the legal position at the time was that under the laws of most provinces the local Government possessed powers to fix the amount of representation to be given to a particular class of the inhabitants in a municipality, but for district boards the power was merely to fix the total number of the members of the board and the number of members of each tehsil in a district) The whole difficult problem remained undecided, but in a resolution of the 16th July 1908 extending the elective system in the Bombay municipalities the Bombay Government stated

> "——A system of communal representation, though attractive at first sight, is beset by practical difficulties, and is also open to the objection that it may stir up sectional animosities."

It was left therefore for the representation of those classes who were unable to secure representation of their own to be obtained by nomination. Elsewhere opinion inclined sometimes in opposition to, sometimes in favour of, communal

representation in local bodies. The Government of India had deferred passing definite orders, when the outbreak of war in 1914 prevented for the time being any further progress in the settlement of their policy in what was felt to be a very highly controversial matter.

The Government of India's Resolution of the 16th May 1918.

42. In the circumstances we may pass over the intervening years until we come to the Government of India's resolution dated the 16th May 1918 on the local self-government policy of the Government of India. This resolution was linked with the announcement of the policy of His Majesty's Government made in the House of Commons on the 20th August 1917 in respect of the increasing association of Indians in every branch of administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible Government in India as an integral part of the British Empire. The object of the resolution was to indicate the manner in which the Government of India would desire to initiate the progress to be made in the domain of local self-government. In the course of that resolution the Government of India stated that they would prefer that the special representation of minorities on municipal boards and rural boards should be effected by retaining the practice of nomination rather than by introducing some system of communal or proportional representation. In that sentence, therefore, the Government of India made it clear that they did not favour communal electorates for local bodies. With the passing of the Government of India Act, 1919, local self-government became a transferred subject entrusted to the administration of Ministers.

The present provision for the representation of minorities in local bodies.

43. In Appendix VI attached to this note a statement is given shewing the means of representation of minority communities on municipal and rural boards in the different provinces. In Bombay and the United Provinces provision exists for the separate election of Muslims to both municipal and district boards. In Assam such provision is confined to local or district boards, and does not extend to municipalities. In the Punjab the local Government can prescribe the number of representatives of each class in municipalities. In Madras, the Central Provinces, Bihar and Orissa, and Bengal, excluding Calcutta, the representation of minorities is secured by nomination The Calcutta Municipal Act, 1923, prescribes separate Muslim electorates. In Burma, outside Rangoon, the local Government

is empowered to provide where necessary for the representation of classes. In the Rangoon municipality there is a fixed proportion of members of each community and interest.

Communal representation in local bodies accepted by four of the reformed Councils.

44. It is important to observe that the reformed Legislative Councils of four provinces, namely, the United Provinces, Bengal, Bombay and Assam have expressly accepted the principle of communal representation for local bodies since the Government of India Act was passed.

By the United Provinces District Boards Act, 1922, Muslim rate-payers were given a separate electorate with a fair amount of weighting where their percentage is low.

The Calcutta Municipal Act, 1923, was the handiwork of the Minister, the late Sir Surendranath Banerjea. The Bill as drafted did not provide for communal electorates, and this omission aroused considerable feeling among Muslim members. On that ground its introduction on the 22nd November 1921 was opposed by a Muslim member. Twenty Muslims and a member of the depressed classes then voted against the introduction of the Bill to signify their dissatisfaction with the Minister's policy of not adopting communal electorates for the Corporation. On the succeeding motion for the circulation of the Bill which was moved a week later there was no division, as the Minister had indicated that further opportunity would be afforded for considering the subject of communal representation, but the Muslim members made it clear in the course of the debate that they considered that the Hindu members of the Corporation had not treated Muslim interests with proper consideration and voiced the opinion "that it was a pity that in the first year of the Reforms the Muslims had been compelled to feel what Swaraj would be." Again when on the 3rd July 1922 the Bill was referred to Select Committee, the Muslims did not press matters to a division, but accused the Ministers of packing the Committee with members opposed to communal electorates. The Minister then added one more Muslim member. For a variety of reasons communal feeling was intense at the time when the Calcutta Municipal Bill reached its final stage. The Muslims enlisted the sympathies of the non-official Europeans and the Hindus of the depressed classes on the question of communal electorates. A number of Hindu members feared that the definite cleavage which would result if they forced their will on the Muslims would affect the

broad political attitude o the Muslim co i munity towards self-Government, and to prevent a climax of that description announced their intention of voting with the Muslims on the question of communal electorates for the Corporation. Government also was not united as the Muslim members insisted either on a free vote being allowed or on Government as a body standing neutral. An estimate of the combined Muslim, non-official European, depressed class Hindu and cautious Hindu vote, worked out at a majority over the advanced Hindu vote especially if the Government were not solid. There was thus a certainty of a defeat of the Minister, and Sir Surendra Nath Banerjea accordingly accepted a compromise proposed by a non-official European Member to the effect that for nine years there should be a communal electorate, and thereafter a general electorate.

The Assam Municipal Act, 1923, was altered in Select Committee to make provision for rules to establish communal representation on municipal boards and the Bill was passed with this amendment.

Similarly the provision for communal electorates in the Bombay Municipal Act, 1925, was made as the result of an amendment proposed in Select Committee.

The position in the Punjab.

45. During recent years co mmunal representation on local bodies has been an acutely controversial issue in the Punjab. The following extract on the subject is taken from the most recent report of the local Government on the working of the Reforms addressed to the Government of India with their letter No. 5845, dated the 3rd October 1927 :—

> " ——The evils of communalism have perhaps been more apparent in the field of local self-government than any other sphere. Before the introduction of the reforms the representation of the Muslim community on local bodies was nothing like that to which it was entitled on purely democratic principles, and it may be conceded that it would have been a task of great difficulty for the first Minister for local self-government, a Muslim, to resist the claim of his co-religionists to a greater share of representation on such bodies. Nor is it possible on the point of principle to take objection to the measures which he initiated in order to achieve his object. These

measures included the lowering of the franchise and of qualifications for membership, and the distribution of seats where communal electorates existed, on the basis of the mean between the population and the voting strength of the different communities. It cannot, however, be denied by any close student of the history of the last few years that one result of this policy has been to increase communal feeling. The principles underlying the Minister's policy have naturally been very unpopular with the Hindu community, not only in themselves, but also as embodying a position which Punjab Hindus could not accept in wider spheres without serious consequences to their place in politics . . . On the other hand the Ministers have on the whole been firm in resisting the considerable pressure brought to bear on them to extend the system of communal electorates to places where it was not previously in force, though in several such places the reconstitution of election wards has operated to produce very much the same results as communal electorates."

CHAPTER VIII.

POST-REFORMS DISCUSSIONS ON COMMUNAL REPRESENTATION.

The Bengal Pact, 1923.

46. The references in this chapter to post-reforms discussions on communal representation exclude discussions in the provincial legislative councils of which some mention is made in the previous chapter, and do not purport to be in any sense exhaustive. In 1923 when the Hindu-Muslim alliance of the non-co-operation period had fallen to pieces, the late Mr. C R. Das in Bengal entered into a pact designed to settle Hindu and Muslim differences. *Inter-alia*, this pact provided for communal representation in the Bengal Council and in local bodies in the proportion of 60 : 40 accordingly as either community was in a majority of population, and for the grant of 55 per cent of Government appointments to Muslims. This Pact was rejected by the Congress. A draft National Pact was prepared but came to nothing.

47. At this point some mention may be made of the debate in the House of Lords on the 3rd June 1924 on a notice given by Viscount Peel calling attention to a letter written by the Secretary of State, Lord Olivier, to Mr. Satyamurti, a member of the Madras Legislative Council, and particularly to the statement contained in that letter that " the maintenance of the communal system is antagonistic to the possibility of any proper working of democratic institutions in India." In the course of the rather prolonged debate which ensued Lord Olivier explained that though communal electorates had been found necessary, it was in his opinion a political truism that to have a mosaic of communal constituencies, all of which were exacerbating their own differences, was antagonistic to, or in other words, militated against, the progress of democratic institutions. In his contribution to the debate Lord Curzon questioned the right of any one to lay down of a population of 320 millions split asunder by every diversity of race, religion, language and creed that the communal system was inconsistent with the development of democratic institutions. The publication in the press of Lord Olivier's letter to Mr. Satyamurti had caused some alarm among Muslims, and in concluding his remarks Lord Curzon expressed his desire to 'nail the point to the counter that although the Secretary of State had expressed certain abstract views of his own, he had stated with even greater clearness that the Government of which he was a member had no intention of abolishing the communal system.'

The House of Lords Debate of June 1924 on Lord Olivier's letter to Mr. Satyamurti.

48. The Report of the Reforms Enquiry Committee was dated the 3rd December 1924. The problem of communal representation in the Councils was discussed in paragraph 69 of the report of the majority who reached the following broad conclusion—

The views of the majority and of the minority of the Reforms Enquiry Committee.

> " It must be admitted that in principle these provisions are open to constitutional objection, and most of us look upon them as an obstacle to political advance, but we consider that the abolition of any special communal electorates and in this we include reserved seats, is quite impracticable at the present time. The objections of the communities concerned are, in our opinion, far too

> deep-rooted to enable us to justify any recommendation in this respect."

The majority then stated that they were not prepared either to recommend even the substitution in whole or in part of reserved seats for separate electorates and added—

> "It is true that it may be urged that this would facilitate the eventual abolition of separate communal representation. On the other hand, however, it means that the representatives of the communities which attach particular importance to the existing provisons will be elected largely by the suffrages of other communities."

The majority also dealt with a suggestion made by Sir T. B. Sapru that the present system should be replaced by a system under which the existing quota of communal members would be elected from as wide a constituency as possible. It was explained that the object of the recommendation was to improve the quality of members by enlarging the field of choice The majority stated that in the existing circumstances they considered that this would place too great a strain upon the capacity of the electorate Before leaving the subject the majority expressed the hope that no further extension of communal representation would be found to be necessary, and observed that before it is permitted any community should be required to prove that it will suffer very appreciably if the existing arrangements continue.

The views of the minority will be found in chapter 8 of their report in which they expressed themselves as follows :—

> "While, therefore, we think that in the present conditions it is unavoidable that due regard must be paid to communal interests and that they should be adequately safeguarded by provisions in the Constitution, we do affirm that by the mere postponement of the solution of questions connected with Constitutional advance not only will no useful purpose be served but that it may make the task more difficult in the future."

Apparently the view which the minority were expressing was that in spite of the fact that communal electorates are a hindrance, they did not, in their judgment, supply sufficient ground for postponing further consideration of constitutional progress.

Renewed Muslim anxiety.

49. In its sessions held in 1924, 1925 and 1926 the All-India Muslim League continued to emphasise its adherence to separate representation for Muslims and in moving his resolution on the subject in the All-India Muslim League held in December 1926, Mr. Jinnah said -

> " —— There is no escaping from the fact that communalism does exist in the country. By mere time and sentiment it could not be removed. Nationalism could not be created by having a mixed electorate."

Throughout 1926, which was the year of the serious communal riots in Calcutta, a movement against communal electorates, certainly among Hindus, began to gather increased weight. Communal electorates were stated in short to be the root-cause of dissension between the two communities. Fears that Government might yield to the agitation which had been started for the abolition of the system led Muslims to seek an assurance that no change was contemplated at the time. This assurance was publicly given by His Excellency in a speech at the Chelmsford Club in August 1926 in which, after appealing to the communities to come to terms, he stated that the problem of communal representation was one which would naturally fall within the purview of the Statutory Commission, and Government did not intend to take any steps either to curtail or extend the system in advance of the inquiry which the Commission would make. Shortly after, in replying to an address presented by Muslims at Poona, His Excellency stated—

> "The question of communal representation about which you have expressed anxiety is of great complexity. I have said elsewhere its only justification is that it should be the means through which every community should feel free to give what it can to the common cause of the service of India. But if this ultimate purpose is obscured and if communal representation comes to be regarded as an

and in itself, then it has the effect of narrowing the horizon of our loyalty. What was designed to promote the cause of unity may quickly become the seed bed of division when different communities have to live together. It is incumbent upon each to recognise that the cause of peace demands a wide measure of mutual toleration and restraint. That which we claim for ourselves we must be ready to accord to our neighbours. This spirit, if it may but grow, will be found to be a better and more lasting solvent for the present discords than any artificial methods of representation, but until we can reach this state communal representation in some form is likely to be necessary and it is probable that a substantial modification of it must largely depend upon the general consent of all communities."

Lord Birkenhead's comments in the House of Lords in July 1926.

50. The subject of communal representation had been referred to by the Secretary of State in a speech delivered in the House of Lords on the 28th July 1926. In that speech Lord Birkenhead expressed the opinion that it was not true to deny all connection between reforms and the present Hindu-Muslim tension but it was a grossly inadequate explanation to attribute it either to the existence of reforms or to their nature. As far as tangible cause of tension could be assigned, it was to be found in the general post-war unsettlement which gave a final quietus to the system of paternal government and allowed component elements of the Indian population to take stock of their new position and insist increasingly and vehemently on their own rights. It was doubtless true, said Lord Birkenhead, that the system of communal representation tends to stereotype cleavage, but there is not the slightest ground for an assertion that, had Parliament insisted in the teeth of violent opposition in carrying reforms in 1919, which embodied such representation, Hindu-Muslim relations would have become more amicable than lately they have been. On the other hand it was almost certain that they would have become very much more violent and embittered.

The Council of State debate of March 1927.

51. On the 17th of March 1927, the Hon'ble Sir Sankaran Nair, formerly

member of the Governor General's Executive Council, moved a resolution in the Council of State to the effect that no further step should be taken towards responsible Government until the Hindus and Muslims agreed to dispense with the election of members on the legislatures by separate electorates composed only of Hindus or Muslims. The resolution appeared to arise primarily from the statement by the All-India Muslim League of their idea of what should be the basic and fundamental principles on which any new constitution should be based. Included among those principles was a provision that the representation of communal groups should continue to be by means of separate electorates as at present, provided that it shall be open to any community to abandon a separate for a general electorate. An amendment was moved by a Muslim member to provide for the retention of separate electorates, and a further amendment to permit constitutional advance with joint electorates and protection for minorities. After discussion the amendments were negatived and the original resolution was withdrawn. The resolution served the purpose of ventilating the views of various sections on the subject of communal representation.

The Delhi proposals of March 1927.

52. During the course of that debate no Muslim member had expressed the view that the time had yet come when communal electorates could be dispensed with. In the circumstances there was some surprise when a statement was issued to the press a few days later by a number of Muslim members of the legislature to the effect that at an informal conference which they had held among themselves they had agreed to the institution of joint electorates, on the condition that Sind should be separated from the Bombay Presidency and made a separate province, and, secondly, that reforms should be introduced in the North West Frontier Province and Baluchistan on the same terms as in any other province of India. If these conditions were accepted by the Hindu-Muslim communities Muslims would accept joint electorates in all provinces, and would make to the Hindu minorities in the provinces where Hindus were in a minority the same concessions that the Hindus were prepared to make to Muslim minorities elsewhere. In the Punjab and Bengal representation should be on the basis of population and in the Indian legislature Muslims should be represented by not less than one-third o the members chosen by mixed electorates. Immediately after the statement containing

these conditions had been communicated to the press some of those who had been present at the conference wrote to the newspapers denying that they had agreed to the conditions and saying that they could not accept joint electorates on any terms. Mr. Jinnah who had taken a leading part in convening the conference himself issued a further statement to the press in which he said that the Muslim proposals must be accepted or rejected in toto; while about three weeks later the representative in the Assembly of the North West Frontier Province gave a statement to the press in which he said that if Muslims desired to preserve their identity, they should not allow themselves to be merged politically in the Hindu majority. He concluded by saying that a joint electorate in the existing circumstances would be an unequal combination disadvantageous to the weaker side. From comments made in the Muslim press throughout India it seemed clear that whatever the reception the Hindus might give to the conditions suggested at the conference of Muslim leaders, there was little chance of their finding favour with Muslims generally.

The Hindu reply.

53. Three days after the Muslim conference, the Hindu members of the Indian legislature met in Delhi to consider the Muslim proposals. At this meeting the following principles were generally accepted as the basis of further discussion :—

(1) There should be joint electorates for all the legislatures throughout India.

(2) Everywhere seats should be reserved on the basis of population.

(3) Religious and quasi-religious rights should be safeguarded by specific provisions in the constitution.

(4) Problems involving the rearrangement of provincial boundaries should be left alone for the time being.

At a meeting of the Hindu Maha Sabha a few days later it was decided that the suggestions of the Muslim conference were not yet ripe for discussion.

Recent resolutions passed by political organisations.

54. The question of joint versus separate electorates has continued to be a much debated issue in current politics, the course of which is indicated in the resolutions attached to the further appendices to this note, namely—

Appendix VII. Resolutions (1) and (2) of the All India Congress

Committee passed at Bombay in May 1927 in favour of substituting joint for separate electorates, with reservation of seats as a temporary measure and if desired. Provision was also made for reciprocal concessions in favour of minorities including Sikhs in the Punjab. These two resolutions form part of the general body of five resolutions on the subject of Hindu-Muslim unity all of which are reproduced in this appendix.

Appendix VIII.—The Hindu-Muslim Unity Resolution passed by the Madras Congress of December 1927 reproduced in this appendix was based on the resolutions of the All India Congress Committee passed at Bombay in May 1927.

Appendix IX.—Resolution passed by the Calcutta Session of the All-India Muslim League. In the course of this resolution it is stated that "in present circumstances the representation of Muslims in the legislatures by separate electorates is inevitable, and Muslims will not accept any scheme involving the surrender of this valuable right unless and until Sind is actually constituted a separate autonomous province and reforms are actually introduced in the North West Frontier Province and Baluchistan. When these requirements are fully satisfied Muslims will be prepared to abandon a separate in favour of a joint electorate with reservation of seats fixed on the basis of the population of the different communities" subject to certain stipulations contained in the resolution.

Appendix X.—Resolution of the Lahore Session of the All-India Muslim League containing the statement that 'the idea of joint electorates with or without a specified number of seats being unacceptable to Indian Muslims on the ground of its being a fruitful source of discord and disunion and also as being wholly inadequate to achieve the object of the effective representation of

various communal groups, the representation of Indian Muslims shall continue to be by means of separate electorates as at present, provided that it shall be open to any community at any time to abandon its separate electorates in favour of joint electorates'. Attention is also drawn to the provisions in the resolution on the subject of the proportion of Muslim representatives.

The Calcutta and Lahore Sessions of the All India Muslim League were rival meetings of the same body owing to differences of opinion between the leaders :—

Appendix XI.—Resolution of the All-India Liberal Federation including provision affirming that 'national patriotism can be best developed by a system of joint electorates qualified by the reservation of seats for important minorities until it be possible with the goodwill of the communities concerned to dispense with reservation of seats'.

Appendix XII.—Resolution passed by the Delhi Session of the All-India Hindu Maha Sabha on February 8th, 1928, declaring that communal representation is fundamentally opposed to nationalism.

Appendix XIII.—Resolutions passed by the All-Parties' Conference at Delhi in February and March 1928.

APPENDIX I.

Census and electorate statistics of the Muslim Community.

Province.	Population of British India (in thousands).	Population of Muslims in British India (in thousands).	Percentage of Muslim population to total population.	Percentage of Muslim electorate for provincial councils to Muslim population in provincial councils.
British India	246,960	66,735	27	...
Madras	42,318	2,840	6·7	2·4
Bombay	19,291*	3,820	19·7	3·57
Bengal	46,695	25,210	53·9	2·1
United Provinces	45,375	6,481	14·3	3·58
Punjab	20,685	11,444	55·3	2·67
Bihar and Orissa	34,002	3,690	10·9	1·1
Central Provinces	13,912	563	4	2·52
Assam	7,606	2,202	28·9	3·4
Burma	13,212	...	...	...
Delhi	488	...	...	...
Ajmer-Merwara	495	...	...	...
North-West Frontier Province	2,251	2,062	91·6	...

* Excludes Aden.

APPENDIX II.

Distribution of seats in Provincial Councils (except Burma).

Provinces.	Total (ex-officio, nominated and elected).	Total (elected).	By special electorates.				By general electorate.									Percentage of Muslim seats to total elected seats.	Percentage of Muslim seats in Provincial Councils according to the Lucknow Pact.
			Total.	University.	Land-holders.	Commerce and Industry including mining and planting.	Rural.	Urban.	Europeans.	Anglo-Indians.	Indian Christians.	Sikhs.	Rural.	Urban.	Total.		
							Muslims.	Muslims.					Non-Muhammadans.	Non-Muhammadans.			
1. Madras	132	98	13	1	6	6	11	2	1	1	5	...	56	9	35	13·2	15
2. Bombay	114	86	11	1	3	7	22	5	2	...	...	...	35	11	75	51·3	33
3. Bengal	140	114	22	2	5	15	33	6	5	2	...	...	35	11	92	34·2	40
4. United Provinces . . .	123	100	10	1	6	3	25	4	1	...	...	...	52	8	90	29	30
5. Panjab	94	71	7	1	4	2	27	5	...	...	...	12	13	7	64	45·07	50
6. Bihar and Orissa . . .	103	76	9	1	5	3	15	3	1	.	...	...	42	6	67	23·6	25
7. Central Provinces . . .	73	*55	7	1	3	3	6	1	..	...	...	...	32	9	48	12·7	15
8. Assam	53	39	6	...	...	6	12	...	...	...	..	...	20	1	33	30·7	

*Includes Berar Members.

APPENDIX III.

Distribution of seats in the Burma Legislative Council.

Province.	Total (ex-officio nominated and elected).	Total (elected).	By special electorates.			By General electorates.						
			University.	Commerce.	Total.	General Rural.	General Urban.	Indian Urban.	Karen Rural.	Anglo-Indian.	European.	Total.
Burma	103	79	1	5	6	44	14	8	5	1	1	73

APPENDIX IV.

Distribution of seats in the Legislative Assembly.

Province.	Total (ex-officio nominated and elected).	Non-Muhammadan general seats including for Punjab.	Muslim general seats.	Percentage of Muslim seats to total Indian General seats.	Other general elected seats.		Special elected seats.		Total elected.	Percentage of Muslim seats to total elected seats.	
					European	General.	Indian Commerce.	Land-holder.			
Madras . .	18	10	3	23	1	..	1	1	16	18·8	
Bombay . .	20	7	4	36·4	2	...	2	1	16	25	
Bengal . .	21	6	6	50	3	...	1	1	17	35·3	
United Provinces .	18	8	6	42·9	1	..	...	1	16	37·5	
Punjab .	15	5	6	54·5	..	...	...	1	12	50	
Bihar and Orissa .	14	8	3	27·3	...	...	...	1	12	25	
Central Provinces .	6	3*	1	25	...	...	...	1	5	20	*Excluding one Non-Muhammadan Berar.
Assam . .	5	2	1	33·3	1	...	...	...	4	25	
Burma . .	5	..	...	...	1	3	...	...	4	..	
Delhi . . .	1	...	...	..	...	1	...	...	1	...	
Ajmer-Merwara .	1	...	..	..	...	1	...	...	1	...	
North-West Frontier Province.	1	...	...	...	...	...	...	...	...	...	
Berar .	1	..	..	...	...	...	...	...	...	...	
Government of India	14	...	...	...	...	...	...	...	...	...	
Associated Chamber of Commerce.	1	...	..	...	...	...	...	...	..	...	
Indian Christian .	1	..	..	...	...	...	...	...	..	...	
Depressed Classes .	1	...	...	...	...	...	...	...	...	...	
Anglo-Indian Community.	1	..	...	...	...	..	...	...	...	...	
Labour Interests .	1	...	...	...	...	...	...	...	...	..	
Total .	145	40	30	37·9	9	5	4	7	104	28·8	

APPENDIX V.

Distribution of seats in the Council of State.

Province.	Total (ex-officio nominated and elected).	General seats.	Muslim seats.	Sikh seats.	European Commerce.	Total (elected).
Madras	7	4	1	...	...	5
Bombay	8	3	2	...	1	6
Bengal	8	3	2	...		6
United Provinces	7	3	2	...	..	5
Punjab	7½	1	1½	1	..	3½
Burma	2	1	...	...	1	2
Bihar and Orissa	4½	2½	1	...	...	3½
Central Provinces	2	1	...	...	...	1
Assam	1	½	½	...	...	1
North-West Frontier Province	1	...	...	...	...	...
Berar	1	...	...	...	...	...
Government of India	10	...	..	..	...	...
Total	59	19	10	1	3	33

APPENDIX VI.

A statement showing the means of representation of minority communities on municipal and rural boards in different provinces.

Madras City	Representation of Muslims and other minorities is secured by nomination.		Section 5 (*f*) of Madras City Municipal Act, 1919, as amended up to date.
Madras District municipalities	Ditto	Ditto	Section 7 (3) of Madras District Municipalities Act, 1920, as amended up to date.
Madras local boards	Ditto	Ditto	Section 9 (5) of Madras Local Boards Act, 1920, as amended up to date.
Bombay City	There are no separate special constituencies for representation of Muslims and other minority communities Inequalities of representation are corrected by nomination.		.....
Bombay district municipalities	Governor in Council prescribes by rules the number to be elected by sections of inhabitants. Model rules provide for separate election by Muslim and non-Muslim wards.		Section 11 (*c*) (*ii*) of Bombay District Municipalities Act, 1901, as amended up to date.
Bombay City municipalities (major towns).	Government has power to make rules prescribing the number of wards to be constituted for Muslims non-Muslims and depressed classes in each Municipal borough and the number of councillors to be elected by each.		Section 10 (1) (*e*) of Bombay City Municipalities Act, 1925.
Bombay local boards	Government has power to secure by nomination representation of depressed classes if and where necessary. Rules provide for separate election by general and Muslim constituencies.		Section 5 (4) of Bombay Local Boards Act, 1923, as amended up to date.

Statement showing means of representation of minority communities on municipal and rural boards in different provinces—*concld.*

Calcutta	The local Government is competent to appoint councillors to secure representation of minorities including backward and labouring classes. The law also provides for separate representation of Muslims by election.	Section 5 (*b*) (*ii*) of Calcutta Municipal Act, 1923, as amended up to date and Schedules III and IV.
Bengal district municipalities .	Representation of Muslims and other special communities on local bodies is secured by nomination	.....
Bengal local and district boards		
United Provinces municipalities.	The local Government makes provision by rule for the special representation of classes of the community such as Muslims and non-Muslims.	Section 11 (1) (*b*) of United Provinces Municipalities Act, 1916, as amended up to date.
United Provinces district boards.	Proportion of elected members to be elected by Muslim electorates is laid down by law.	Sections 4 and 5 of United Provinces District Boards Act, 1922.
Punjab municipalities . .	The local Government has power to prescribe by rule the number of representatives of each ward or class.	Sections 12 and 240 (1) (*c*) of Punjab Municipalities Act, 1911, as amended up to date.
Punjab district boards . .	The mode of appointment or election of members is determined by rules made by the local Government.	Sections 11 and 55 (1) (*d*) of the Punjab District Boards Act, 1884, as modified
Rangoon municipality . .	There is a fixed proportion of members of each community and interests.	Section 7 and Schedule I, Chapter I, Rangoon Municipal Act, 1922, as amended up to date.
Burma municipalities . .	The local Government has power to determine the number of members and manner of their election, so as to provide, among other things, for the representation of classes of inhabitants.	Sections 7 and 8 of Burma Municipal Act, 1898, as amended up to date.
Burma district councils and circle boards.	There is no specific provision in law for the representation of Muslims and other communities, but rules provide for separate representation of different communities. It is possible for such classes to be represented by nomination.	Section 7 of Burma Rural Self Government Act, 1921, as amended up to date.
Bihar and Orissa municipalities	Representation of minorities and special interests is secured by appointments made by local Government as far as possible.	Section 18 (1) (*b*) of Bihar and Orissa Municipal Act, 1922, as amended up to date.
Bihar and Orissa district boards		Section 8(2) (*a*) of Bihar and Orissa Local Self-Government Act, 1923, as amended up to date.
Central Provinces municipalities.	Local Government has power to make rules regulating the mode of election, selection and nomination of members. But there are no separate electorates or reservation of seats for Muslims or minority communities on municipalities or rural boards. Deficiency in the representation of minorities is made up by nomination.	Section 10 (4) of Central Provinces Municipalities Act, 1922, as amended up to date.
Central Provinces district councils and local boards.		Section 79 (1) (iii) of Central Provinces Local Self-Government Act, 1920, as amended up to date.
Assam municipalities . .	Elected members are elected by joint electorate of all communities Government may correct inequalities by nomination.	Section 296 (2) (1) of Assam Municipal Act, 1923, as amended up to date.
Assam local boards . .	Muslims and non-Muslims form separate electorates. Rules require that claims of castes, communities and interests not adequately represented by elected members should be taken into consideration in appointing nominated members.	Section 4 (2) of Assam Local Self-Government Act, 1915, as amended up to date.

APPENDIX VII.

Resolutions passed by the All-India Congress Committee at Bombay in May 1927.

"The All-India Congress Committee approves and adopts the report of the Working Committee on the Hindu-Muslim question and the recommendations contained therein and calls upon all Congress organisations to take necessary steps to have the following recommendations carried out : —

(1) *Joint Electorates.*—That in any future scheme of constitution, so far as representation in the various legislatures is concerned, joint electorates in all the provinces and in the Central Legislature be constituted.

(2) *Reservation of seats.*—That, with a view to give full assurances to the two great communities that their legitimate interests will be safeguarded in the Legislatures, for the present, and if desired, such representation of the communities should be secured by the reservation of seats in joint electorates on the basis of population in every province and in the Central Legislature :

Provided that reciprocal concessions in favour of minorities including the Sikhs in the Punjab may be made by mutual agreement so as to give them representation in excess of the proportion of the number of seats to which they would be entitled on the population basis in any province or provinces, and the proportions so agreed upon for the provinces shall be maintained in the representation of the two communities in the Central Legislature from the provinces.

(3) (*a*) *North West Frontier Province and British Baluchistan.*—That the proposal made by the Muslim leaders that reforms should be introduced in the North West Frontier Province and British Baluchistan on the same footing as in other provinces is, in the opinion of the Committee, a fair and reasonable one, and should be given effect to, care being taken that simultaneously with other measures of administrative reform an adequate system of judicial administration shall be introduced in the said provinces.

(3) (*b*) *Separation of Sind from Bombay.*—(i) That with regard to the proposal that Sind should be constituted into a separate province, this Committee is of opinion that the time has come for the redistribution of provinces on linguistic

basis—a principle that has been adopted by the constitution of the Congress.

(*ii*) The Committee is also of opinion that such readjustment of provinces be immediately taken in hand and that any province which demands such reconstitution on linguistic basis be dealt with accordingly.

(*iii*) The Committee is further of opinion that a beginning may be made by constituting Andhra, Sind and Karnatak into separate provinces.

(4) *Liberty of conscience.*—That in the future constitution, liberty of conscience shall be guaranteed and no legislature, central or provincial, shall have power to make any laws interfering with liberty of conscience.

"Liberty of Conscience" means liberty of belief and worship, freedom of religious observances and association and freedom to carry on religious education and propaganda with due regard to the feeling of others and without interfering with similar rights of others.

(5) *Inter-communal matters.*—That no bill, resolution, motion or amendment regarding inter-communal matters shall be moved, discussed or passed in any legislature, central or provincial, if a three-fourths majority of the members of either community affected thereby in that legislature oppose the introduction, discussion or passing of such bill, resolution, motion or amendment.

"Inter-communal matters" means matters agreed upon as such by a Joint Standing Committee of both communities, of the Hindu and Muslim members of the legislatures concerned, appointed at the commencement of every session of the legislatures."

APPENDIX VIII.

The Unity Resolution of the Madras Session of the Indian National Congress, December 1927.

"This Congress resolves that in any future scheme of constitution, so far as representation in various legislatures is concerned, joint electorates in all Provinces and in the Central Legislature be constituted.

That with a view to give full assurances to the two great communities that their legitimate interests will be safeguarded in the Legislatures for the present and, if desired, such representation of communities should be secured by reservation of seats in joint electorates on the basis of

population in every province and in the Central Legislature provided that reciprocal concessions in favour of minorities in the Punjab may be made by mutual agreement so as to give them representation in excess of the proportion of the number of seats to which they would be entitled on population basis in any province or provinces and the proportions for the Provinces in the Central legislature from Province. In decision of reservation of seats for the Punjab the question of representation of Sikhs as an important minority will be given full consideration. The proposal made by Muslim leaders that reforms should be introduced in North-West Frontier Province and British Baluchistan on the same footing as in other provinces is, in the opinion of the Congress, fair and reasonable and should be given effect to, care being taken that simultaneously with other measures of administrative reform an adequate system of judicial administration shall be introduced in the said provinces.

That with regard to the proposal that Sind should be constituted into a separate province this Congress is of opinion that the time has come for redistribution of provinces on linguistic basis, a principle that has been adopted by the constitution of the Congress.

This Congress is also of opinion that such re-adjustment of provinces be immediately taken in hand and that any province which demands such reconstitution on linguistic basis be dealt with accordingly.

This Congress is further of opinion that beginning may be made by constituting Andhra, Utkal, Sind and Karnatak into separate provinces. That in the future constitution "liberty of conscience" shall be guaranteed and no Legislatures, Central or Provincial, shall have power to make any laws interfering with the "liberty of conscience." "Liberty of Conscience" means liberty of belief and worship, freedom of religious observances and association and freedom to carry on religious education and propaganda with due regard to the feelings of others and without interfering with the similar rights of others. That no bill, resolution, motion or amendment regarding inter-communal matters shall be moved, discussed or passed in any legislatures, Central or Provincial, if three-fourths majority of the members of either community affected thereby in that Legislature oppose the introduction, discussion or passing of such a Bill, resolution, motion or amendment.

"Inter-communal matters" mean matters agreed upon as such by a joint standing committee of both communities of Hindu and Muslim members of the Legislatures concerned appointed at the commencement of every session of Legislature.

This Congress resolves that without prejudice to rights that Hindus and Muslims claim one to play music and conduct processions wherever they please, and the other to slaughter cows for sacrifice or food wherever they please, the Muslims appeal to the Muslims to spare Hindu feelings as much as possible in the matter of the cow, and the Hindus appeal to the Hindus to spare Muslim feelings as much as possible in the matter of music before mosques, and therefore this Congress calls upon both the Hindus and Muslims not to have recourse to violence or to law to prevent the slaughter of a cow or the playing of music before a mosque.

The Congress further resolves that every individual or group is at liberty to convert or to reconvert another by argument or persuasion but no individual or group shall attempt to do so or prevent it being done by force, fraud or other unfair means such as the offering of material inducement. Persons under 18 years of age should not be converted unless it be along with their parents or guardians. If any person under 18 years of age is found stranded without his parents or guardian by persons of another faith he should be promptly handed over to persons of his own faith. There must be no secrecy as to the person, place, time and manner about any conversion or reconversion nor should there be any demonstration of jubilation in support of any conversion or reconversion. Whenever any complaint is made in respect of any conversion or reconversion that it was effected in secrecy or by force, fraud or other unfair means or whenever any person under 18 years of age is converted the matter shall be enquired into and decided by arbitrators, who shall be appointed by the Working Committee either by name or under general regulations."

APPENDIX IX

Resolution passed by the Calcutta Session of the All-India Muslim League, December 1927.

"The All-India Muslim League authorizes the Council of the League to appoint a Sub-Committee to confer with the Working Committee of the Indian National

Congress and such other organisations as the Council may think proper for the purpose of drafting a constitution for India in which interests of the Muslim community will be safeguarded, having regard to the following proposals which the league approves of and adopts and subsequently take part in the national convention which is going to take place in Delhi March next, as suggested by the Indian National Congress.

(1) That Sind should be separated from the Bombay Presidency and constituted into a separate autonomous province.

(2) That Reforms should be introduced in the North West Frontier and Baluchistan placing them on the same footing as other provinces.

(3) That in the present circumstances the representation of Muslims in different legislatures of the country through separate electorates is inevitable and that Muslims will not accept any scheme involving the surrender of this valuable right, unless and until Sind is actually constituted a separate autonomous province, and reforms as aforesaid are actually introduced in the North-West Frontier and Baluchistan provinces. When these requirements are fully satisfied, Muslims will be prepared to abandon separate electorates in favour of joint electorates with reservation of seats, fixed on the basis of population of different communities, subject to what is stated hereinafter, (1) Sind, North-West Frontier and Baluchistan; Muslim majority make the same concessions with regard to the proportion of seats reserved to the Hindu minority that the Hindu majority in other provinces would make to the Muslim minorities over and above the proportion of the population of the provinces which shall be the minimum basis; (2) in Central Legislature Muslim representation shall not be less than one third."

APPENDIX X.

Resolution passed by the Lahore Session of the All-India Muslim League, December 1927.

"1. Whereas the speedy attainment of Swaraj is one of the declared objects of the All-India Muslim League, and whereas it is now generally felt that the conception of Swaraj should be translated into the realm of concrete politics and become a factor in the daily life of the Indian people, the All-India Muslim League hereby resolves, that in any scheme of a constitution for India,

that may ultimately be agreed upon and accepted by the people, the following shall constitute its basis and fundamental principles :—

(*a*) The Provinces of India shall all be united under a common Government on a federal basis, following the model of the United States of America, so that each Province shall have full and complete autonomy, the functions of the Central Government being confined to such matters of general and common concern as may be expressly mentioned in the constitution.

(*b*) Any territorial re-distribution that might at any time become necessary shall not in any way affect the Muslim majority of population in the Punjab, Bengal, North-West Frontier Province, Baluchistan and Sind.

(*c*) Full religious liberty, *i.e.*, liberty of belief, worship, observances, propaganda, association and education shall be guaranteed to all communities.

(*d*) The idea of joint electorates whether with or without a specified number of seats, being unacceptable to Indian Muslims, on the ground of its being wholly inadequate to achieve the object of effective representation of various communal groups, the representation of the Indian Muhammadans shall continue to be by means of separate electorates as at present, provided that it shall be open to any community at any time to abandon its separate electorates in favour of joint electorates.

(*e*) That the representation on the various legislative Councils in the country shall be so arranged as to ensure that no majority in any Province shall be converted in the Legislative Councils into either a minority or equality.

(*f*) The constitution of the Executive in the Central and Provincial Governments shall be so devised as to provide adequate representation of the Muslim Community in the various Indian Cabinets. The amount of representation in the Central Legislature shall be at least 33 per cent.

(*g*) No bill or resolution or any part thereof affecting any community, which question is to be determined by the Community in the elected body concerned, shall be passed in any Legislature or any other elected body if three-fourths of the members of that Community in that particular body oppose such bill or resolutions or part thereof."

APPENDIX XI.

Resolution passed by the Indian Liberal Federation at Bombay in December 1927.

"(*a*) This Federation places on record its deep conviction that for the early attainment by India of responsible government, it is of paramount importance that the unfortunate communal differences should be composed. It calls upon all its members to promote and actively support every movement calculated to bring about a better understanding between Hindus and Muslims and unity in political matters by just representation for minorities in the legislature

(*b*) This Federation cordially appreciates the earnestness of distinguished Muslim leaders who have put forward a scheme for the settlement of outstanding differences.

(*c*) It affirms that national patriotism can best be developed by a system of joint electorates qualified by the reservation of seats for important minorities until it be possible with the goodwill of the communities concerned to dispense with reservation of seats."

APPENDIX XII.

Resolution passed by the Delhi Session of the All-India Hindu Mahasabha on February the 8th, 1928. The All-India Hindu Sabha met at Delhi and passed a resolution stating that after considering (*a*) the Delhi Muslim proposals, (*b*) the resolution adopted in respect thereof by the Madras Session of the Indian National Congress and (*c*) the resolution passed immediately after the close of the Madras Congress by the Calcutta session of the Muslim League

"this meeting of the All-India Hindu Sabha reiterates its conviction that communal representation is fundamentally opposed to Nationalism and lays down the following essential propositions for incorporation in any future constitution of the country :—

(*a*) That there shall be uniformity of franchise for all communities in each Province.

(*b*) That elections to all the elective bodies shall be by mixed Electorates.

(*c*) That there shall be no reservation of seats on communal considerations in any of the Elective Bodies and Educational

institutions, but to start with if a minority community in any Province were to demand a reservation of seats, such reservation may be granted only in the Legislatures for a short period and on the basis mentioned in Clause (*d*) In no circumstances, however, shall there be any reservation of seats in favour of any majority community.

(*d*) The basis of representation of different communities shall be uniform, such as adult population, voting strength or taxation.

(*e*) The redistribution of Provinces in India, if and when necessary shall be made on their merits in light of principles capable of a general application with due regard to administrative, financial and similar other considerations, but no new Provinces shall be created with the object of giving a majority therein to any particular community. In the case of Provinces like the North-West Frontier Province and Baluchistan and scheduled district steps should at once be taken to secure with as little delay as possible the benefits of a regular system of administration, both judicial and executive, so as to leave no ground for refusing them the full benefits of the future reformed constitution of the Government of India.

(*f*) There shall be no communal representation in the Public Services which must be open to all communities on the basis of merit and competency ascertained through open competitive tests."

APPENDIX XIII.

Resolutions passed by the All-Parties' Conference at Delhi in February and March 1928.

(a) *Resolution passed on the 21st February 1928.*

At a meeting of the All-Party Conference held on the 21st February 1928, the following resolution was recorded.

"Representatives of all organisations present, *i.e.*, the Indian National Congress,

the Muslim League, the Liberal Federation, the South Indian Liberal Federation of Madras, the Landholders' Association, the Sikh League, the Central Khilafat Committee, the Indian States People's Conference, the National Home Rule League, the Bombay Swaraj Sabha, the Trade Union Congress, the Republican League, and the Hindu Maha Sabha, agree that—

(1) Under the new Constitution for India to be drawn by a Committee to be appointed by this Conference, representation in all legislatures, Central and Provincial, shall be by joint electorates, subject for the present to reservation of seats on the population basis in the Central Legislatures or in any province in which such reservation is asked for. (Note :— Representatives of the Hindu Maha Sabha desire it to be recorded that they do not agree that seats should be reserved for majorities in any province).

(2) This Conference is of opinion that simultaneously with the inauguration of the new constitution, redistribution of provinces such as Andhra, Utkal, Sind, Karnatak, Central Provinces (Hindi) and any other area demanding separation on a linguistic basis may be undertaken provided (a) that the separate province shall be financially self-supporting; (b) that on the scheme of separation being laid before the people of the area concerned with its financial aspects, the majority of the inhabitants favour the scheme and express their readiness to bear the financial responsibility of the new arrangement, (c) that the North-West Frontier Province, Baluchistan, Delhi, Ajmere-Merwara, Coorg and scheduled Districts and any province which may be separated from any existing province shall be placed on the same footing in respect of its form of Government and its executive and judicial administration as any other province. (Note :—Mr. Kelkar and Mr. Chablani are opposed to the question of redistribution of provinces being mixed up with the question of electorates. Mr. Jinnah and other Muslim members of the League who were present, it is said, explained that they were present only in their individual capacity. As the league had not formally elected them delegates to the All Party Conference, they could not therefore commit the League to clauses relating to financial self-sufficiency and reference of separation to the population unless the League had considered them. But they hoped to be able to persuade the League to accept them).

(3) This Conference resolves that so long as the system of Government in the North-West Frontier Province and Baluchistan is not placed on the same footing as in other provinces, and Sind is not separated from the Bombay Presidency in spite of the readiness of the majority of the people to bear the financial responsibilities involved in the separation, the system of separate electorates shall remain in force.

(4) Reciprocal concessions in favour of minorities may be made by mutual agreement, so, as to give them representation, in excess of the proportion of the population in the number of seats to which they would be entitled on the population basis in any province, and that the proportion so agreed upon for the provinces shall be maintained in the representation of the two communities in the Central Legislature from the provinces (Note :— Representatives of the Hindu Maha Sabha do not agree to the last two propositions in the decision of the reservation of seats for the Punjab. The question of representation of Sikhs as an important minority will be given careful consideration).

(5) Resolved further that the Conference do proceed with its work on the basis of agreement so arrived at.

(*b*) *Extract of clauses* (3) *and* (4) *of a resolution passed on the 11th March 1928, by the All-Parties' Conference at Delhi.*

* * * *

(3) The question discussed at some length was the reservation of seats for majorities It was found that while the Hindu Sabha and the Sikh League were strongly opposed to any such reservation, the Muslim League equally strongly supported it. The resolution of the Congress— Part A(2), is open to the construction that reservation of seats may be claimed by minorities as well as majorities. This Conference is of the opinion that it is possible to provide for the safeguards contemplated by the resolution of the Congress and the Mnslim League by devising a system of election on the principle of proportional representation by the single transferable vote or some similar method.

This Conference resolves that a Committee consisting of the following members be appointed to investigate the whole

matter, and make its report to this Conference at an early date. Meanwhile, the representatives of the parties concerned are requested to lay the matter before their respective organisations, and obtain full powers to deal finally with the matter at the next meeting of the Conference.

The names of the members are Mr. S. Srinivasa Iyengar (Chairman), Mr. Shanmukham Chetti, Sardar Mangal Singh, Mr. Rafi Ahmad Kidwai, Maulana Mahomed Ali, (representatives of the Muslim League dissenting).

(4) Consideration of joint and separate electorates and the proportion of members in the Central Legistures and the protection of minorities and like matters do stand adjourned till the receipt of the reports of these committees.

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